

Note from the Police Accountability Commission:

The Police Accountability Commission appreciates that the City Council has entrusted our group with the task of proposing a plan for the new oversight system for police accountability in Portland. What follows is a summary of the PAC's findings and recommendations, along with documentation of the various topics we researched. The PAC's findings were evaluated through various means, including through public comment, equity analysis, and legal review. We are proud to present these recommendations to you.

Thank you!

Members of the Police Accountability Commission

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1. Executive Summary

The Police Accountability Commission was appointed by the City Council to develop recommendations to craft a new police oversight system for the City of Portland. The Commission began its work in December 2021, and concluded its work on August 31, 2023.

The framework for the new police oversight system is in Section 2-10 of the Charter, approved by the voters of the City of Portland on November 3, 2020 with 82% of votes in favor. This provides both the core legal framework for the PAC's work and the moral imperative to meet the needs of the community. ~~While the City Charter is akin to the Constitution of the City, t~~The recommendations of the PAC build out the information in the Charter and are primarily in the form of a proposed new section of the City Code (the laws of the City). The new system will also be governed by federal and state law, collective bargaining, and other legal obligations.

The PAC's proposals include the creation of the Community Board for Police Accountability ("Board" or "CBPA"), the oversight board authorized by the voters in the Charter. The Bureau Director and staff authorized in the Charter as reporting to this oversight board have been developed in the PAC's proposals as the Office of Community-based Police Accountability (OCPA), an independent bureau within the City government.

In developing its recommendations, the Police Accountability Commission held 128 public meetings and hearings, held 23 community engagement events, met with dozens of experts and affected parties, conducted hundreds of hours of research and drafting, engaged with over 1,500 community members, collaborated within and outside of the City government, and generally fulfilled the task given to the PAC by the City Council to have a "lengthy, involved process" as well as "an inclusive, diverse, community-driven process."¹ The PAC thanks every community member who contributed to this process in any way.

Prior to starting to develop its proposals, the PAC heard from leaders and experts within the City, including law enforcement leadership. The PAC also researched practices from other jurisdictions, proposals from subject matter experts, and barriers to police accountability in the current system in Portland, which formed a "problem statement" that the PAC's new system was designed to begin to solve. The PAC also identified best practices within the current system in Portland, to ensure that things that are working are maintained in the new system.

This report has details on processes, legal parameters, PAC organization, contributing inputs into our final recommendations, challenges faced, and more. The remainder of this Executive Summary focuses on the details of the PAC's proposal: the recommendations of the Police Accountability Commission to the City Council, which when approved will begin the process of creating the Community Board for Police Accountability and the Office of Community-based Police Accountability.

¹ Resolution 37527

Attributes of the New Oversight System

Following the mandates of the City Charter and the City Council's resolutions guiding its work, the PAC has designed a new oversight system for Portland Police. This new system will be:

- Community-led, with a community police oversight board that manages the oversight staff rather than advises it;
- Representative of the community, with required forms of representation of the community and a supportive structure for volunteers on the oversight board to ensure that these voter-approved requirements are met;
- Empowered to directly make findings, and impose discipline where appropriate, on police officers who have committed misconduct;
- Able to incorporate community concerns in its policy discussions, and able to take recommendations related to police not only to the Portland Police Bureau, but to a vote of the City Council if needed;
- Transparent in its reporting, and open to the public where legally permitted;
- A single structure which investigates most instances of possible police misconduct from beginning to end, and is therefore clearer, more transparent, and less complex for officers, complainants, City leaders, and the community at large;
- Empowered to access the information it needs, and have and manage a sufficient budget, to do this work;
- Compliant with several layers of law, from the federal level down to the local level; and
- Reflective of the mandate given to the City by the voters when approving Charter 2-10.

~~Mandates of the City Charter²~~

~~Portlanders, in approving the new police oversight system, provided the following mandates which the City Council was tasked to work within, including:~~

- ~~• A mission to investigate Portland officers, impose discipline, and make policy recommendations³~~
- ~~• Board members will be appointed by Council, will include representation from diverse communities with diverse lived experiences, and cannot be current or former law enforcement agency employees nor immediate family members of current law enforcement agency employees~~
- ~~• The Board will hire and manage a Bureau Director who will hire and manage professional staff~~
- ~~• Funding for the Board will be proportional to be no less than 5% of the Portland Police Bureau's annual operational budget~~
- ~~• The Board will have authority to exercise independent judgement in performing its duties~~

Elements of the Proposed Oversight System

The new system differs from the current system in the following ways:

² ~~City of Portland City Charter, Ch 2, Art 10~~

³ ~~Portland City Charter §2-1001~~

1. The new Board is **community-led** with investigations run by **non-police investigators**. The new **Community Board for Police Accountability** will **hire the Director** of the new **Office of Community-based Police Accountability**. The complaints/cases will move through **one system**. (Charter Sections 2-1001 and 2-1005)
In the current system **cases/complaints** **are routinely shifted among four systems**: the City's **Independent Police Review (IPR)**; the Police Bureau's **Internal Affairs unit (IA)**; the **Citizen Review Committee (CRC)**; and the **Police Review Board (PRB)**, which creates complexity and at times disagreement between parts of the system in describing the processes they are all a part of.
2. The new Board will **make decisions about whether officers violated policy** and **corrective action/discipline** if appropriate (Charter Section 2-1007, proposed code Section 35D.180).
In the current system, only in the appeals process (the Citizen Review Committee) are community members the majority decision-makers, and if the Chief disagrees with the committee's findings, City Council makes the final decision.
3. The new Board will **investigate deadly force incidents** and allow for community members to **appeal findings in those cases** if officers initially have findings other than "out of policy" (Charter Section 2-1008, proposed code section 35D.240).
In the current system, IPR can go to the scene of deadly force incidents, observe the investigations, and vote on proposed findings at the PRB, but **cannot investigate directly**. The CRC has been told that they **cannot hear appeals on deadly force cases**.
4. The new system will **provide complaint navigators** to community members **from the beginning to the end of the process** (proposed code section 35D.090).
In the current system, a person **only** gets access to an "Appeals Process Advisor" **toward the end of the process when there is an appeal filed**.
5. The new system will be able to **make recommendations** about police policy, training, directives, and practices to the Police Chief. While that is not unique, the process after this is new: if the Chief does not accept the recommendation, the new oversight board may send it to the City Council, and the Charter mandates that the **Council votes on whether to approve the recommendation**. ([Charter 2-1007b](#))

~~The PAC estimates the new system will handle roughly 400 cases per year, with as many as 240 going to a Hearings Panel (proposed Code section 35D.180), a subset of the Community Board. Because the PAC strongly recommends that Board members be volunteers rather than paid employees, the Board will need to be of a substantial size to equitably distribute the workload (proposed code section 35D.010).~~

With the projected workload and mission, the Board will need staff working on issues including investigations/hearings support, policy issues, mediation, records, outreach/community engagement, data analysis, communications, and more. The PAC believes that the estimated

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127 budget of \$12.5 million, equivalent to 5% of the Police Bureau's budget, will be necessary to
128 cover the costs (Charter Section 2-1004).
129

130 These recommendations, detailed in this report with reasoning on key decisions and
131 appendices showing the full text of PAC decisions, are being sent to City Council with a
132 request ~~confidence that they will be comprehensively for a comprehensive~~ reviewed, and with
133 an offer for continued collaboration during Council review ~~where helpful conversation and~~
134 ~~continued collaboration with the PAC's members~~. We thank the City Council in advance for this
135 consideration, and commit to supporting this process as it now moves into review and
136 evaluation, and eventually implementation, to create the Community Board for Police
137 Accountability and the Office of Community-based Police Accountability.

138

Commented [PAC3]: STAFF NOTE: To move to Oversight Staff

2. Introduction

Background

On July 29, 2020, the Portland City Council adopted Resolution 37499 which placed Ballot Measure 26-217 on the November 2020 ballot for the consideration of voters.^{4 5} Voters approved the ballot measure with 81.58% of the votes, authorizing a new, independent community police oversight board and accountability system for the Portland Police Bureau.⁶ In December 2020 the City Council adopted Resolution 37527 which created an application and selection process for a 20-member commission to detail the rules for the new oversight system.⁷ This commission worked to develop this system between December 2021 and August 2023.

Since December 2021, the 20-member City Council appointed Police Accountability Commission (PAC) has been meeting weekly⁸ to complete the task designated to them in 2021 when City Council adopted resolution 37548 “establish[ing] a commission to write rules, definitions, procedures, and other necessary details for recommendation to Council for the new police oversight system---.”⁹ The Police Accountability Commission was officially formed in December 2021, with each member appointed unanimously by City Council. The PAC began working toward the goal of creating a system that is fair, accessible, community focused, and anti-racist.¹⁰ The PAC met xx times and held 23 community engagement events. Additionally, the PAC consulted with various subject matter experts including local public safety officials, City Council Commissioners, and people with experience in the field of police accountability. The feedback from these groups informed the PAC’s work from the start and helped to shape the recommendations that we are now ready to present to City Council. This report details the PAC’s phased approach and timeline, the community engagement events that the PAC hosted, and challenges faced by the PAC during its work.

Members of the PAC

Members of the PAC were appointed by City Council following the Selection Criteria Council established in December 2020 in Resolution 37527. This includes having five members from communities that have historically been overpoliced, five members from organizations that

Commented [PAC4]: Co-chair suggestion: move "Values and Goals" section to introduction

Commented [PAC5]: Update based on table in appendices.

⁴ [Portland City Council Resolution 37499](#) (2020)

⁵ [City of Portland Ballot Measure 26-217](#) (2020)

⁶ [City of Portland 2020 Election Results](#)

⁷ [Portland City Council Resolution 37527](#) (2020)

⁸ <https://www.portland.gov/police-accountability/events/meetings>

⁹ [Portland City Council Resolution 37548](#) (2021)

¹⁰ [Police Accountability Commission Values and Goals](#) (2022)

167 provide support to historically overpoliced communities, five members representing
168 community justice organizations, and five members that represent small business. The
169 community members appointed to the PAC are listed below, with former members
170 distinguished as such from the current members at the time the Commission concluded its
171 work.

Member	Member	Member	Member (former)

Commented [PAC6]: STAFF NOTE: To be updated by staff following this template, in alphabetical order, post-August 31.

172

173 **Phased Approach and Timeline**

174 In early 2022 the Police Accountability Commission adopted a phased approach to their work
175 and developed their internal organizational structure. During this initial phase, the PAC agreed
176 on specific values and goals that would drive their work throughout the process of creating new
177 policy for police oversight.¹¹ The organizational phase also included ordering the tasks that the
178 PAC was to complete and creating the Agenda and Scope¹² of the Commission. The tasks were
179 ordered to best meet the needs, concerns, and desires of the communities most impacted by
180 policing, over-policing, and police misconduct. Next, the PAC determined that the members
181 needed to gather information on a variety of topics such as: police-related entities in Portland,
182 how the Independent Police Review and Citizen Review Committee handle cases, Police Bureau
183 roles in deadly force investigations, Internal Affairs and Police Review Board processes,
184 different types of oversights systems in place in the United States, and the US Department of
185 Justice Settlement Agreement. Following the initial organization of the PAC, the Commission
186 began researching other accountability systems and inviting local officials to their meetings to
187 brief them on relevant topics. After conducting research and hearing from subject matter
188 experts, the PAC began developing recommendations for the powers and duties of the new
189 oversight system. During the next phase, the PAC outlined the structure of the new Oversight
190 System, including how the staff and community members would work together to complete the
191 entire case-handling process. The fifth phase focused on developing a transition plan to get the

¹¹ [Police Accountability Commission Values and Goals](#) (2022)
¹² [Police Accountability Commission Agenda and Scope](#) (2023)

192 City from the current oversight system to the new oversight system and explained how the new
193 oversight system would fit within the broader system of the city, state, and federal
194 governments. Finally, In August 2023, the PAC concluded their work and approved a final code
195 package to present to City Council. These phases of work resulted in thirteen documents:

Commented [PAC7]: Will be updated with citation including link to final code.

- 196 • Areas of agreement on:
 - 197 ○ Barriers to Police Accountability, and Best Practices, in Portland
 - 198 ○ Proposals to Consider, and to Avoid, from Subject Matter Experts
 - 199 ○ Best Practices, and Practices to Avoid, from Other Jurisdictions
 - 200 ○ Access to Information
 - 201 ○ Officer Accountability
 - 202 ○ Structural Oversight
 - 203 ○ Board Membership
 - 204 ○ Oversight Staff
 - 205 ○ Reporting and Transparency
 - 206 ○ Broader System
 - 207 ○ Name
- 208 • Transition Plan
- 209 • Code Package Recommendations

210 Each of these documents outlines details of the new oversight system that the Police
211 Accountability Commission is recommending to City Council and are explored throughout this
212 report. The following report will details the work that the Police Accountability Commission has
213 completed since December 2021 and provides context for the decisions the Commission made
214 in developing the recommendations.

215 Creating a new oversight system for the City of Portland was a monumental task and the
216 members of the PAC worked diligently to complete it within the given timeline. Throughout
217 their time working together, members of the Commission used a rotational leadership
218 approach and collaborated to create documents that detailed the areas of agreement on each
219 section. These areas of agreement were then translated into the recommended changes to
220 Portland City Code that outlines the functions, authorities, and processes of the Community
221 Board for Police Accountability and the Office of Community-based Police Accountability.

Commented [PAC8]: STAFF NOTE: Convert to present tense, e.g. "This report details".

222
223 This report details and explains the PAC's proposals. It is organized as follows:

- 224 • Report sections describing the parameters governing the PAC's work:
 - 225 ○ The City Charter and Legal Parameters
 - 226 ○ The PAC's Values and Goals
 - 227 ○ The PAC's Agenda and Scope

228 ○ Community Input and Guidance which the PAC received

229 ○ The PAC's Bylaws and Internal Processes

230 • The research done by the PAC in its Fact-Finding Phase of Work to understand barriers

231 and best practices to police accountability in Portland, and how other jurisdictions

232 addressed, and subject matter experts suggested Cities address, similar issues

233 • Sections describing the PAC's decisions about the new system's Powers and Duties:

234 ○ The system's Access to Information

235 ○ Processes for Officer Accountability

236 ○ How the Board will conduct Structural Oversight, including Policy

237 Recommendations;

238 • Sections describing the PAC's decisions about the new system's Structure:

239 ○ Board Membership

240 ○ Oversight Staff, who will report to a Director hired and managed by the Board;

241 ○ Reporting and Transparency, for how the public will have access and be able to

242 learn about the new system's work

243 • The Oversight System's role within the Broader System of city, county, state, and federal

244 government;

245 • A section describing the PAC's proposed Transition Plan for initial implementation

246 • The PAC's observations about challenges faced in doing this work and context of the

247 PAC's decisions

248 • A Conclusion

249

250 Additionally, there are several Appendices, including:

251 • Appendix A, showing the City Code proposal in comparison to current City Code, Charter

252 mandates, other legal requirements, and other relevant sources

253 • Appendix B, with more detail on the work of the PAC (including its meetings and

254 community engagement)

255 • Appendix C, which are documents received by the PAC as inputs into our work

256 • Appendix D, which are the full text of the parameters for the PAC's work that are

257 summarized in the main report;

258 • Appendix E, which are the Areas of Agreement, and supplementary documents to them,

259 reached by the PAC that were foundational to the development of our detailed

260 recommendations

261 • Appendix F, which are the full text of recommendations to the City to use in their initial

262 evaluation period over the next 60 days and include the Transition Plan and

263 recommended changes to the *USDOJ v. City of Portland Settlement Agreement*

264 • Appendix G, which are recommendations that would be implemented in the future by

265 the Board and City, and include recommendations for the Board's Bylaws, the

266 Administrative Rules to be issued by the new Office, for the City to use in developing its
267 legislative agenda for state and federal laws; and finally for the City to use when
268 bargaining with police-related collective bargaining units.
269

3. City Charter and Legal Parameters

Portland City Charter 2-10¹³

The City Charter text was approved by voters in November 2020. It creates the broad parameters of a community-led oversight system, including an oversight board that would include members appointed by City Council, but with independent judgment. This board will have a staff, and working directly and with staff, will investigate situations of possible officer misconduct, apply findings, and impose discipline and corrective action. Types of possible misconduct include all deaths in custody and uses of deadly force, all complaints of force resulting in injury, discrimination, violation of rights, and more. The oversight board also may make recommendations about police practices, policies, and directives, which would go first to the Portland Police Bureau and then (if rejected by the Police Bureau) would go to the City Council, who would decide whether to implement the recommendations. Finally, the board has several protected methods to obtain information necessary to conduct the duties above, including the ability to compel testimony and issue subpoenas.

The Charter requires the name, size, and terms of the Board to be defined in City Code, as well as other types of complaints or incidents of misconduct [within the Board's jurisdiction](#).

Section	Section Summary
2-1001	A Board is authorized; the mission of the Board is to independently investigate PPB sworn officers promptly, fairly, and impartially, to impose discipline, and make recommendations regarding practices, policies, and directives to the PPB.
2-1002	Board members appointed by City Council. The Board shall ensure a diverse membership, particularly of community members who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.
2-1003	People currently or formerly employed by a law enforcement agency are ineligible for service.
2-1004	Budget will be proportional to 5% of PPB annual budget.
2-1005	The Board shall hire a Bureau Director who will manage the professional staff. The Director will serve at the will and pleasure of the Board.
2-1006	Authority to exercise independent judgement in performing legally assigned duties and no administrative agencies shall interfere.
2-1007	The Board will have the power to: investigate complaints, including to subpoena and compel documents; issue disciplinary action; make policy recommendations; gather and compel all evidence; access all police records; compel witness statements (including officers); and to compel sworn members and their supervisors to participate in investigations.
2-1008	Authority to investigate: in-custody deaths and uses of deadly force, force that results in injury, discrimination, violations of constitutional rights, other complaints or incidents
2-1009	Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

United States of America v. City of Portland Amended Settlement Agreement¹⁴

[From the USDOJ v. City of Portland Settlement Agreement:](#)

The US Department of Justice and the City entered into a Settlement Agreement in 2014 with the goal of ensuring that the Portland Police Bureau ("PPB") delivers police services to the people of Portland in a manner that effectively supports officer and public safety and complies with the Constitution and laws

¹³ [Portland City Charter §2-10](#), see also Appendix D1 of this report

¹⁴ [United States of America v. City of Portland](#), Amended Settlement Agreement Pursuant to Ded. R. Civ. P. 41 (a)(2)

of the United States. Specifically, this Agreement is targeted to strengthen initiatives already begun by PPB to ensure that encounters between police and persons with perceived or actual mental illness, or experiencing a mental health crisis, do not result in unnecessary or excessive force. The Agreement falls under the jurisdiction of the U.S. District Court.

[A 2012 US Department of Justice \(DOJ\) investigation into Portland Police Bureau's use of force against people with actual or perceived mental illness led to the City of Portland and the US DOJ entering into a settlement agreement "to ensure that encounters between police and persons with perceived or actual mental illness, or experiencing a mental health crisis, do not result in unnecessary or excessive force."](#)¹⁵

After the voters approved the ballot measure to create the Community Police Oversight Board in November 2020, the City and DOJ amended the Settlement Agreement in April 2022.¹⁶ Paragraph 195 of the amended Settlement Agreement states:

"In 2020, the City referred to voters a ballot measure that would overhaul the police accountability system incorporated into this Agreement by establishing a new Community Police Oversight Board to replace IPR for investigations of certain complaints of police misconduct and to replace the Chief of Police for imposition of discipline. City voters approved the ballot measure. The City has since empowered a 20-member civilian Commission to define the duties and authority of the Oversight Board and submit a proposal to City Council for final approval." (p. 62).¹⁷

Paragraph 195b states:

"Within 18 months of the date this paragraph is entered as an order of the Court, the Commission shall propose to City Council changes to City Code to create a new police oversight system as reflected in the City of Portland Charter amendment establishing a Community Police Oversight Board.

-Within 60 days of receiving the Commission's proposal, the City will propose amendments to City Code to address the Commission's proposal, and corresponding amendments to this Agreement, subject to the United States' and the Court's approval, to ensure full implementation of the Oversight Board and effective police accountability, consistent with the requirements of this Agreement.

-Within 21 days of the approval of the amendments to the Agreement by the United States and the Court, the City Council shall consider and vote on the conforming City Code provisions creating the Oversight Board.

-Within 12 months of the Council's adoption of the City Code provisions, the new Oversight Board shall be staffed and operational, and IPR shall then cease taking on new work and complete any pending work. For good cause shown, the deadlines imposed by this subparagraph (b) may be reasonably extended provided that the City is in substantial compliance with subparagraph (a). (p. 63).¹⁸

Relevant sections of the Settlement Agreement also include paragraph 121, which requires the current oversight system to complete administrative accountability processes from intake of cases to application of findings within 180 days (see Appendix G1).¹⁹

¹⁵ [United States of America v. City of Portland \(2012\), Introduction \(p. 1\)](#)

¹⁶ [City of Portland Ballot Measure 26-217, Exhibit A](#)

¹⁷ [United States of America v. City of Portland](#) Amended Settlement Agreement

¹⁸ [United States of America v. City of Portland](#) Amended Settlement Agreement

¹⁹ [United States of America v. City of Portland](#) Amended Settlement Agreement

Federal and State Law

The PAC was also bound by federal and state law, including protections for officers that may be subjects of administrative investigations. These protections include:

- Due process: Due process includes the right to a hearing, that decision-makers must consider the evidence presented and make decisions supported by the evidence presented at the hearing or contained in the record and disclosed to affected parties; that the evidence be substantial; that decision-makers must act on their own independent consideration; and that decisions should be made in such a manner that the parties to the proceeding can know the reason for the decision made.
- Just cause: a required reason for imposition of discipline, just cause is “a cause reasonably related to the public safety officer’s ability to perform required work. The term includes a willful violation of reasonable work rules, regulations or written policies.”
- ~~Fifth Amendment protections against self-incrimination, which were a key consideration in the PAC ensuring that compelled testimony from officers would not be shared with prosecutors considering possible criminal charges (where testimony cannot be compelled).~~²⁰ ~~Fifth Amendment protections against self-incrimination:~~
- Federal Department of Labor Guidance, which created a maximum compensation rate for volunteers equivalent to 20% of the hourly rate of a similarly tasked staff member²¹ and provides other parameters related to benefits and reimbursements for expenses incurred.
- State Public Records Law: State public records law covers what records the new oversight system will be obligated to disclose and which are exempt from disclosure or cannot be disclosed. The possibility of discussion of a record that cannot be disclosed in a public meeting was a key consideration of the PAC in determining that some portions of hearings may not be able to be open to the public.²²
- State Public Meetings Law: State public meetings law addresses decision-making for public bodies such as the oversight board, how and when executive sessions are appropriate, and levels of public access to each type of public meeting.²³

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4. PAC Values and Goals

The Police Accountability Commission began by discussing the City of Portland's Core Values,²⁴ the importance of values to their work, and the use of values and goals as criteria to measure a proposal against before recommending it to the City Council. The PAC also noted overarching principles, including that the new system should be fair, just, and reflect the concerns, needs, and desires of the community. The Police Accountability Commission agreed on the following values and goals to drive their work:

Value	Goal
Equity and Inclusion	Ensure fair and just outcomes for all
Anti-Racism	Reflect that racism is an indoctrination system and dismantle institutional and systemic racism in the police accountability process
Harm Reduction	Reduce harm caused by policing and become an avenue to heal the harm already caused
Transparency and Trustworthiness	Build and earn trust from the community
Community-Centered	Value the needs of the community above the needs of the City government or Portland Police Bureau
<u>Continual Effectiveness</u>	<u>Have the flexibility to meet the changing needs of the community it serves</u>

Within each Value, there are 1-2 corresponding Goals (listed above). Additionally, each value has between 2-8 evaluation considerations ~~there are 2-8 considerations or~~ success criteria ~~for each value~~, for a total of 28; these are included in the full document (Appendix D3). These considerations were self-imposed metrics for the PAC to evaluate its work before approving it to send to City Council. The PAC reviewed its Values and Goals at each meeting of the Concluding Phase, and evaluated its work against the considerations and success criteria before sending it to the City Council on August 31, 2023.

²⁴ [City of Portland Core Values](#): Anti-racism, Equity, Transparency, Communication, Collaboration, Fiscal Responsibility

5. PAC Agenda and Scope

The Police Accountability Commission developed its Agenda and Scope as part of its Organizational Phase (January-March 2022). This document provided the roadmap for the Commission's work after its adoption on March 31, 2022 through the end of the Commission's work on August 31, 2023. The full document is included in this report as Appendix D4. The tasks were ordered to best meet the needs, concerns, and desires of the communities most impacted by policing, over-policing, and police misconduct.

The Agenda and Scope defines all the organizational work for the PAC itself (including the creation of the Agenda and Scope itself) as part of the Organizational Phase, along with developing PAC Bylaws, a PAC Community Engagement Framework, and the PAC Values and Goals. The second phase, which was content focused but did not develop any of the attributes of the new system for Portland, was the Fact-Finding Phase; this included research and assessment yielding Areas of Agreement on Barriers to Police Accountability, and Best Practices, in Portland; on Practices to Consider, or to Avoid, from Other Jurisdictions; and on Proposals to Consider, or to Avoid, from Subject Matter Experts. Notably, although the PAC was only required to assess barriers to police accountability in Portland, it chose to take a balanced approach and assess best practices as well, to recognize that there are successes as well as areas for improvement in the current system and to ensure that its future proposals would retain those best practices to the degree possible.

The third phase focused on the powers and duties of the oversight system: **what it will do**. This included how it will access information, how it will conduct administrative investigations, and its policy recommendation process.

The fourth phase focused on the structure of the new system: **how it will be set up to do what it needs to do**. Based on the needs established in the third phase, the PAC in the fourth phase developed details of the board's membership, its staff, and its reporting and transparency. Also, during the third and fourth phases the PAC developed the definitions required by Council related to key terms in the Charter. The fifth phase developed the transition plan for the initial implementation of the oversight system defined in the previous two phases. In it, the PAC also discussed the name of the new board (and office that reports to it), as well as how the new system will relate to other parts of government.

Finally, in the sixth phase the PAC worked with legal counsel to convert previous agreements into Code text, to develop its final report (this document), and to continue incorporating various forms of feedback (from the community, from City Council, from legal counsel, from equity experts, and more) into the proposal.

Phase of Work	Description
1	Organization (of internal PAC processes and documents)
2	Fact-Finding (researching other oversight systems and hearing from experts & affected parties)
3	Powers and Duties (what the new system will do)
4	Structure and Details (how the new system will be set up to do what it needs to do)
5	Transition Plan and Broader System (including naming the oversight system)
6	Conclusion (drafting Code, continued community feedback, and finalizing Code and Report)

6. Community Input and Guidance

PAC Community Engagement Framework

In March 2022 the PAC agreed on a framework that described its vision and approach to community engagement.

The vision for the PAC's community engagement of their community engagement framework was to:

- Receive input from all Portlanders, especially those impacted by over-policing, be innovative in their approach to community engagement, and to welcome communities that have been historically underrepresented in City functions.
- Build trust through transparency, community education, and building awareness around the new Oversight System processes.
- Create pathways for Portlanders to engage with police oversight.
- While engaging with the community, create and implement a new system of policies and procedures that will promote restoration, justice, and reconciliation.

In determining its vision, the PAC identified values that would inform its community engagement strategies. These values included:

- Honor the time and perspectives of those most impacted.
- Prioritize equity by welcoming diverse people, voices, and information while treating communities with a trauma informed lens.
- Create spaces that prioritize shared goals and collaboration; acknowledge personal biases; listen with curiosity; allow others to contribute; understand that communities are their own content experts.
- Engage transparently.
- Commit to action.

The PAC aimed to have continuous communication with a variety of communities and to utilize their feedback in the creation of its proposed policy. The Commission strove to build partnerships with community members and prioritize engagement in communities that have been traditionally excluded from City decision-making processes. The PAC outlined that they would do this by making events accessible and transparent, and making information available to the community in a timely manner.

The PAC accomplished these objectives by:

- Taking public comment during and before public meetings; holding private listening sessions with, or speaking to representatives from, community groups such as The Mental Health Alliance, Albina Ministerial Alliance Coalition, The Oregon Justice Resource Center, Don't Shoot Portland, the Portland Business Alliance, the Pacific Northwest Family Circle, The Rotarians, and the Inter-faith Peace and Action Collaborative.
- Hosting open public information sessions, during which the PAC's proposed policy was presented and the community was invited to engage with the information, ask questions, and provide feedback.
- Hosting small, focused discussion groups in which community members were invited to provide feedback on the PAC's policy as well as offer suggestions, share personal experiences, and help shape the future policy.

Community Engagement by the PAC

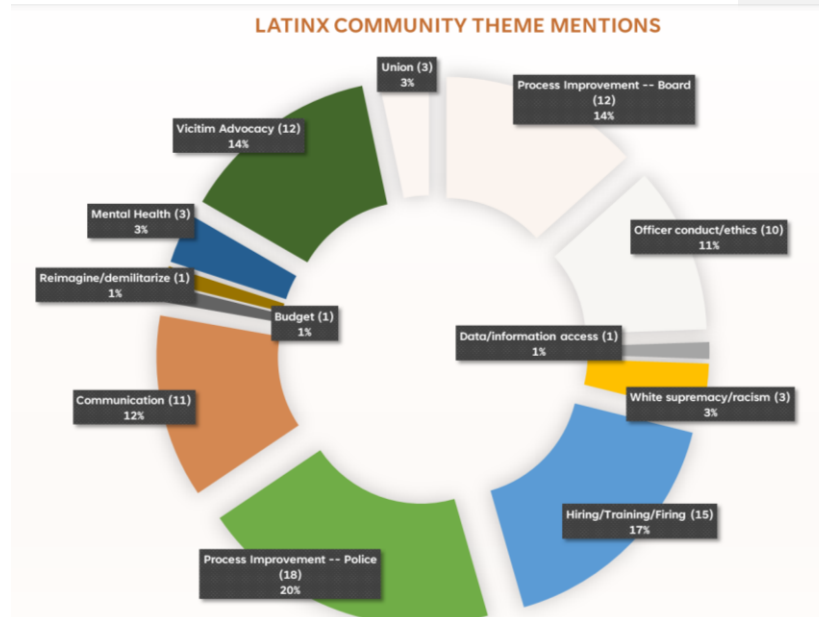
The Police Accountability Commission understood that community engagement was crucial to its work. The Commission held several community information sessions, forums, and Q + As, and hosted discussion groups to gather feedback on the completed documents before finalizing them. All events provided valuable feedback from the community and allowed the Police

Accountability Commission to remain transparent in its work by educating groups on what it was developing.

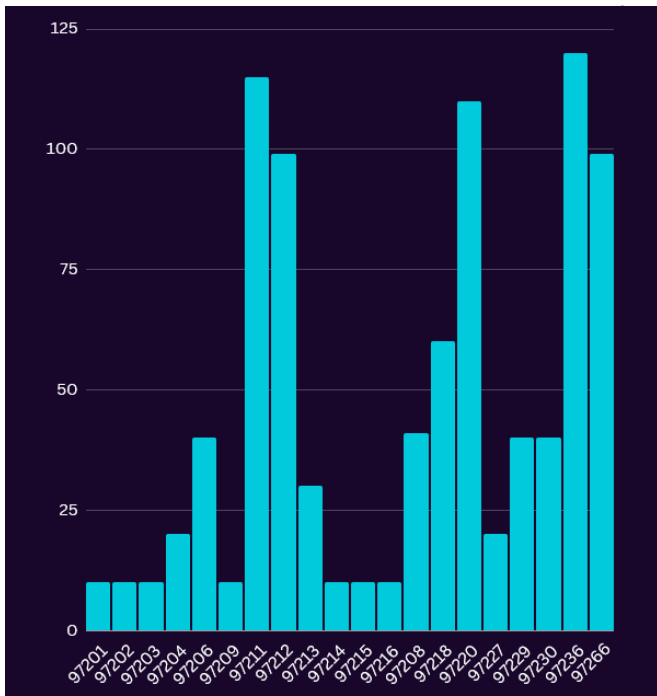
The PAC held 23 community engagement events all over the City of Portland, reached 1,000 people on their email list, and engaged with over **1,500 community members** at their community engagement events. It was important to the PAC that these were two-way communication events, meaning the PAC was there to listen to feedback, questions, and suggestions from the community about what the new police accountability structure should look like. Using the feedback and suggestions from the community the PAC created a proposed police accountability structure that is directly informed by Portlanders. Additionally, in summer 2023 the Police Accountability Commission hired two community outreach consultants to help them with direct outreach to Portlanders, Four Forces Inc. and LD Consulting.

The LD Consulting team partnered with **over 114 leaders, business owners, and healthcare professionals from the Latinx community** to bring awareness of the PAC's mission. In collaboration with LD Consulting in July and August of 2023, the PAC held three Latinx centered events throughout Portland.

The Four Forces team, partnered with Love is Stronger engaged over 800 individuals in the work of the PAC in seven short weeks. They conducted 156 hours of grassroots education and outreach, engaged with 133 businesses primarily owned by people of color and collected 180 survey responses from the community.



480 [Four Forces spread provided community members with a space to show up, give input, and ask](#)
 481 [questions about what the new proposed complaint process will look like. Partnering with Four](#)
 482 [Forces and Love Is Stronger in July and August of 2023, the PAC held six centered events](#)
 483 [throughout Portland.](#)



[Overall, the PAC cast a wide net with their community engagement efforts. They were able to meet with and talk to a large variety of Portlanders. The PAC believes their proposal is a fair representation of what the community in Portland wants: a fair, just, and transparent police accountability process and structure.](#)

[Left: Scope of outreach efforts by the Police Accountability Commission.](#)

[Discussion Groups](#)

[In collaboration with Lara Media Services and Spears & Spears, the Police Accountability Commission hosted eleven](#)

Commented [PAC9]: Co-chair suggestion: move from executive summary to the Community Engagement section

508 [Discussion Group sessions,²⁵ hearing from a total of 124 community members. Through these](#)
 509 [discussion groups the PAC was able to obtain valuable feedback from members communities](#)
 510 [that are historically underrepresented or may have concerns about privacy and confidentiality.](#)
 511 [Participants were diverse in gender identity, age, socioeconomic status, and race and ethnicity](#)
 512 [and provided input from a variety of perspectives and lived experiences.](#)

[Community Engagement by the PAC](#)

513 [The Police Accountability Commission understood that community engagement was crucial to](#)
 514 [its work. The Commission held several community information sessions, forums and Q + As, as](#)
 515 [well as hosted discussion groups to gather feedback on the completed documents before](#)
 516 [finalizing them. All events provided valuable feedback from the community and allowed the](#)
 517 [Police Accountability Commission to remain transparent in its work by educating groups on](#)
 518 [what it was developing.](#)
 519

²⁵ See appendix C2 for detailed reporting on discussion groups.

The PAC held 23 community engagement events between November 2022 – August 2023. These events were held all over the City of Portland including North, Northeast, Southeast, and Southwest Portland. The PAC reached 1,000 people on their email list over the last twenty months, and engaged with over 1,500 community members at their community engagement events. It was important to the PAC that these were two-way communication events, meaning the PAC was there to listen to feedback, questions, and suggestions from the community about what the new police accountability structure should look like. Using the feedback and suggestions from the community the PAC created a proposed police accountability structure that is directly informed by Portlanders.

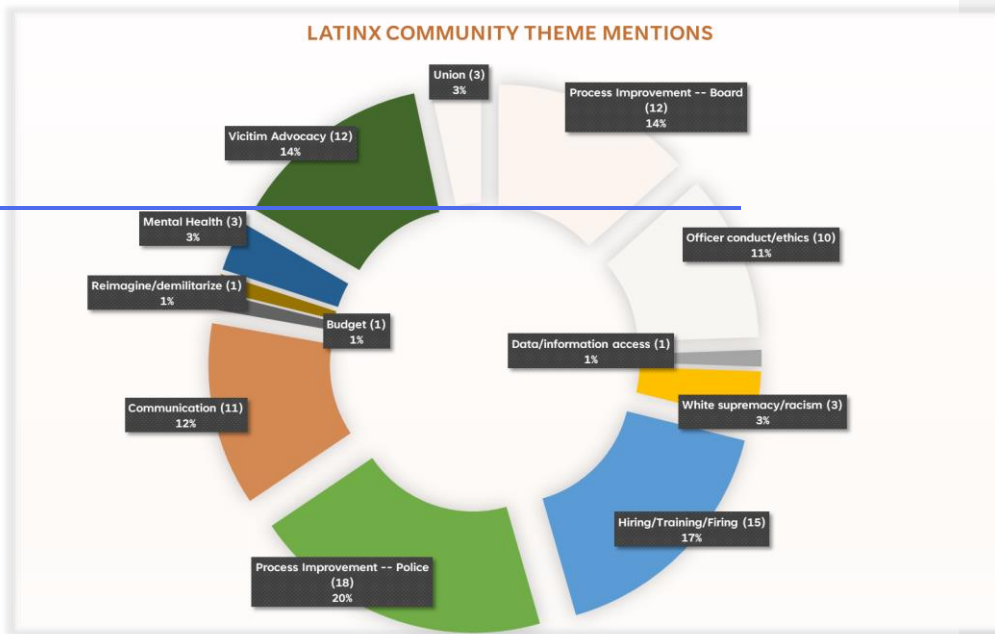
The PAC started their community engagement events in November of 2022. They held a total of 23 events in ten months, concluding in August 2023.

These events were held all over the City of Portland. The PAC engaged with over 1,500 community members at their community engagement events, at its meetings, and in 11 facilitated discussion groups. Using the feedback and suggestions from the community, the PAC created a proposed police accountability structure that is directly informed by Portlanders.

Additionally, in summer 2023 †The Police Accountability Commission hired two community outreach consultants to help them with direct outreach to Portlanders, Four Forces Inc. and LD Consulting. The LD Consulting team partnered with over 114 leaders, business owners, and healthcare professionals from the Latinx community to bring awareness of the PAC’s mission, develop strong community advocates, and provide these community leaders with opportunities to represent those who do not have the opportunity to represent themselves or fear legal/racial discrimination when advocating for themselves. Partnering with LD Consulting in July and August of 2023, the PAC held three Latinx centered events throughout Portland: Latinx Mental Health Care Providers Meeting, Juntos Podemos Meeting, and a Latinx Small Business Owners Meeting.

The key takeaways from the Latinx community engagement events were:

- 1.) Concerns for safety of undocumented individuals when filing a complaint
- 2.) Deep desire to connect the community with police officers on a human level
- 3.) Empathetic recognition of the need for mental health services for police officers



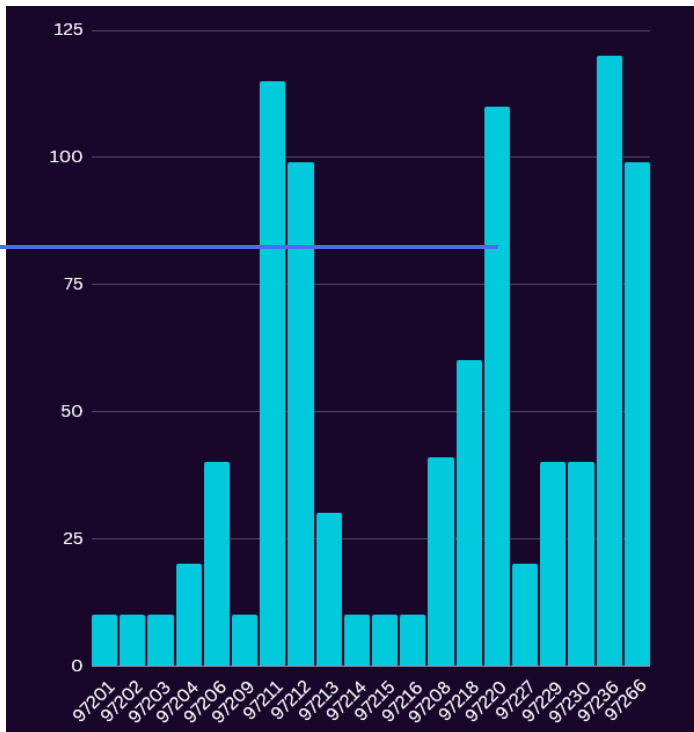
The Four Forces team, partnered with Love is Stronger, used multi-channel promotion, incentives, and diverse publicity methods to engage over 800 individuals in the work of the PAC in seven short weeks. They conducted 156 hours of grassroots education and outreach, engaged with 133 businesses primarily owned by people of color and collected 180 survey responses from the community. Four Forces spread the awareness of the PAC's work, targeted strong community leaders as people to have at these events and engage with, and provided these communities with a space to show up, give input, and ask questions about what the new proposed complaint process will look like. Partnering with Four Forces and Love Is Stronger in July and August of 2023, the PAC held six centered events throughout Portland: Community Info Sessions in the Sellwood neighborhood, Community Info Session in Southwest Portland, Community Info Session in the Lents neighborhood, in the Mill Park neighborhood, and in the Delta Park area, and a Youth and Families Info Session in the Madison South neighborhood, a Community Info Session in the Mill Park neighborhood, and finally a Community Info Session in the Delta Park area.

The key takeaways from these six community engagement events were:

- 1.) Requests for broader marketing efforts for the new complaint process
- 2.) Deep concern around the current Police response time
- 3.) Need for officers to be a part of the community in which they are policing

[Communities Engaged By Zip Code](#)

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This chart summarizes the data on community engagement across various neighborhoods, capturing the scope of outreach efforts as part of the Police Accountability Commission's initiative. These figures represent the number of responses to engagement activities or contacts made within each neighborhood.

Key Geographic Takeaways:

- 1.) High engagement in specific areas: Zip codes 97211 showed notably higher engagement with community ready to interact
- 2.) Broad reach: The outreach extended to areas well beyond the core Portland zip codes, indicating a widespread effort
- 3.) Room for growth: Certain areas, notably Downtown Portland and Montavilla, needed more investment within engagement

Overall the PAC cast a wide net with their community engagement efforts. They were able to meet with and talk to a large variety of Portlanders. The PAC believes their proposal is a fair representation of what the community in Portland wants: a fair, just, and transparent police accountability process and structure.

Discussion Groups

In collaboration with Lara Media Services and Spears & Spears, the Police Accountability Commission hosted eleven Discussion Group sessions,²⁶ hearing from a total of 124 community

Commented [PAC11]: Co-chair suggestion: move from executive summary to the Community Engagement section

²⁶ See appendix C2 for detailed reporting on discussion groups.

members. Participants of these discussion groups were asked to fill out a demographics survey prior to attending the group, and to self-select which group they most identified with. Each participant was compensated by Lara Media Services following their participation in their selected discussion group. The groups were comprised of members from the following communities: small business owners, equity practitioners, neighborhood associations and community based organizations, people between the ages of 18 and 25, anyone who has witnessed or experienced alleged police misconduct and filed a complaint in the current oversight system, people who have witnessed or experienced alleged police misconduct and chose not to file a complaint, Spanish speaking Portlanders, people living with disabilities, people living with mental illness, people who have interacted with police in the last year, and houseless community members. Through these discussion groups the PAC was able to obtain valuable feedback from members of the community that are historically underrepresented or who may have concerns about privacy and confidentiality. Participants were diverse in gender identity, age, socioeconomic status, and race and ethnicity. Common themes were identified from these discussion groups, which are listed below:

- A need to build trust between the local community and Portland Police.
- Increased training for PPB officers to minimize use of force incidents.
- Expand community outreach, education, and accessibility of the complaint system.
- Ensure that the new system is transparent in its processes and with its budget.
- Guarantee accessibility in the new oversight system by allowing anonymous complaints, providing resources for community members who do not speak English as a first language, taking reports of alleged misconduct in different ways and locations, and keeping people informed about the process.
- Maintain a diverse and inclusive community Board.
- Conduct thorough investigations and impose discipline when warranted.
- Create a safe space for community members from historically over-policed communities to share their experiences and create a fund to provide resources to those communities.

Although some of these recommendations do not apply to the work of the Police Accountability Commission, they are included in this report because they reflect the concerns of the community. The Police Accountability Commission was provided with the feedback obtained from the discussion groups and took it into consideration during the final revision of documents and the proposed code package.

7. PAC Bylaws and Internal Processes

The PAC drafted Bylaws and eventually a supplemental Internal Processes document to govern its own decision-making and other governance processes. These processes only govern the PAC's work, not the Oversight Board's. However, the PAC recommended that the Oversight Board use them as model documents for the development of their own Bylaws, and therefore the full documents are enclosed as part of Appendix G1. The full documents are enclosed as Appendices X.

Key principles in the Bylaws and Internal Processes include:

- Modified Consensus Decision-Making
 - The goal of the PAC is consensus, defined as both a lack of strong opposition and the presence of general support or agreement.
 - When consensus is impossible, the PAC can make decisions by vote, with 60% of the voting members required to be in favor for the decision to be made.
- Rotational Leadership
 - The PAC chose to have three co-chairs for the full commission at a time, rather than a singular chair, and two co-chairs for each sub-committee.
 - Co-chairs' terms coincide with the six phases of work, rotating roughly every three months.
- Supportive environment for volunteer members
 - Community Agreements to ensure consistent fairness in conduct
 - Co-chairs and facilitators are tasked with creating a safe environment
 - Members may take a leave of absence of up to three months
 - Facilitation uses a weighted stack to ensure those with societal privilege do not get priority to speak equitable participation
- Public Participation
 - Public comment is taken prior to every decision on a substantive document, and on any topic at the end of nearly every public meeting
 - Quarterly reports are presented in public, with testimony allowed, at City Council meetings
- Communications
 - Members can speak to their existing networks, but note that they're speaking for themselves rather than for the PAC
 - Communications are retained by staff to comply with public records laws
 - Media inquiries are directed to co-chairs but can be delegated to other members.

657 **8. Fact Finding**

658 The Police Accountability Commission spent several months researching the current system in Portland,
659 oversight practices in other jurisdictions, and proposals from subject matter experts. This included
660 evaluation and preliminary determinations of practices and proposals to consider, or to avoid, as well as
661 barriers to police accountability in Portland. As part of this process, the Police Accountability
662 Commission met with various experts and affected parties, including briefings with:

Mayor Ted Wheeler	Portland Police Bureau Chief Charles Lovell and Deputy Chief Mike Frome
City Commissioner Jo Ann Hardesty	PPB Professional Standards Division Commander Jeff Bell and Internal Affairs Acting Captain Greg Pashley
Commissioner Mingus Mapps	PPB Police Review Board Coordinator Christopher Paillé
Commissioner Carmen Rubio	Portland Police Association President Aaron Schmautz
Commissioner Dan Ryan	Independent Police Review Director Ross Caldwell and Deputy Director Dana Walton-Macaulay
Commissioner Rene Gonzalez	Citizen Review Committee Chair Candace Avalos and Vice Chair Yume Delegato
Policy Advisor Derek Bradley, with Senior Deputy City Attorney Heidi Brown, on drafting of Charter 2-10	Albina Ministerial Alliance Coalition Chair Rev. Leroy Haynes and Steering Committee member Rev. Mark Knutson
US Department of Justice representatives Jared Hager and Jonas Geissler	Mental Health Alliance spokespersons K.C. Lewis and Amanda Marshall

663
664 The PAC also researched the following other jurisdictions and evaluated proposals from the following
665 subject matter experts:

Jurisdictions	Subject Matter Experts

666
667 The Police Accountability Commission was tasked by City Council with “identify[ing] current barriers that
668 have stymied the work of Portland’s police oversight systems [and making] suggestions on how to
669 overcome these barriers.”²⁷ **Although the PAC was not required by the City Council to evaluate best
670 practices in the current system, it chose to do so.** The PAC chose to identify these best practices in the
671 interest of conducting a fair and impartial review of the current system, as well as to ensure that its
672 proposals would not inadvertently end any of the practices that are working in the current system.

673
674 The PAC was also empowered to “seek out expertise from those they identify as beneficial to the
675 process both within and outside of Portland.”²⁸ As part of this process, the PAC evaluated practices in

²⁷ Citation to Resolution 37548, Exhibit A.

²⁸ Citation to Resolution 37548, Exhibit A.

676 other jurisdictions around the United States, as well as proposals from subject matter experts, including
677 staff and affected parties at other jurisdictions.²⁹

678
679 Key findings from the evaluation of subject matter experts' recommendations included that healthy
680 civilian oversight systems:

- 681
- 682 • Are independent, have authority to make disciplinary decisions, and can influence the policy and
 - 683 directives of police
 - 684 • Have access to information (from the police) necessary to do all of that
 - 685 • Can investigate complaints from the community, as well as major incidents where there may not
 - 686 be a complainant
 - 687 • Can apply a consistent set of findings, so that the complainant, law enforcement, City Council,
 - 688 and the public can look at cases and understand what the outcomes were.
 - 689 • Can offer mediation for lower-level allegations
 - 690 • Are reflective of those most affected
 - 691 • Have guaranteed resources including funding and staff to do the work they need to do
 - 692 • Are transparent, and
 - 693 • Are able to evolve and improve over time.

694 These items overlap significantly with the text of Charter 2-10. This is a testament to Council's wisdom in
695 crafting the Charter text to be presented to voters, and the voters' in approving the Charter text.

696
697 The PAC's findings with relation to practices in other jurisdictions included the identification of over 100
698 practices to consider, as well as a few to avoid. In evaluating other jurisdictions, the practices that the
699 PAC assessed as "worth considering" would, if combined into a single system, create one that:

- 700 • Reflects communities equitably in its membership and staff, and empowers community by
- 701 taking its input on issues;
- 702 • Has a fair and impartial process for conducting intake, investigations, making decisions on
- 703 findings, imposing discipline or corrective action, and handling appeals by officers and
- 704 complainants, including:
- 705 ○ standard, clear processes and options;
 - 706 ○ clear timelines that balance the need for rigor with the needs of the community, the
 - 707 officer, and the complainant for timely resolution;
 - 708 ○ options for mediation and informal complaints;
- 709 • Has a role in both individual case evaluation and policy recommendations, and is able to
- 710 audit/monitor patterns in cases;
- 711 • Connects individual cases of potential misconduct to policy, procedure, and training reviews
- 712 where appropriate;
- 713 • Has jurisdictional authority over all misconduct that directly affects the public;
- 714 • Has a Board large enough to have broad representation of the demographics, viewpoints, and
- 715 experiences of the City's population, and has structures to promote diversity and representation
- 716 including appropriate compensation;
- 717 • Allows for self-governance by the Board within broader City structures, including clarity of legal
- 718 parameters, Board control of its own bylaws, and independent judgment;

²⁹ Citation to AoA-SME and AoA-OJ.

- Has community members serving on their board who are appointed by City Council, with community representatives involved in the screening of applications and structures that ensure membership remains full or near-full at all times;
- Reports regularly and transparently to the public, and engages directly with the public for both community education and to get community input;
- Supervises oversight staff rather than being advisory to the staff;
- Has enough access to information, staff and budget to do all of this work; and
- Can continually self-improve in addition to improvements suggested or initiated from outside the oversight system.

Finally, the PAC's findings with relation to barriers to police accountability, and best practices, in Portland's current system identified the following barriers:

Barrier	Specific Findings
Lack of Transparency for Complainants	<ul style="list-style-type: none"> • lack of support for complainants to understand what's happening with their complaint • non-transparent timelines for some investigations • inaccessibility to the public • inconsistency in communicating complaint outcomes to the complainant
Complexity within current system	•
Accessibility and Equity	•
Perception and Trust	•
Current Laws and Policies	•
Ineffectiveness	•
Bias or Conflicts of Interest	•
Organizational Culture	•
Inadequate Resources for Community Oversight	•

Commented [PAC13]: STAFF NOTE: Right column to be updated post-August 31 with numbered headers from Areas of Agreement on Barriers and Best Practices.

These barriers formed the problem statement of the Police Accountability Commission's work, and the Commission aimed to mitigate or overcome these barriers in its recommendation development.

The PAC also identified good practices in the current system, and committed to trying to retain or replicate as many of these positive aspects as possible in its recommendations.

Good Practices	Specific Findings
Transparency of the Citizen Review Committee	<ul style="list-style-type: none"> • lack of support for complainants to understand what's happening with their complaint • non-transparent timelines for some investigations • inaccessibility to the public • inconsistency in communicating complaint outcomes to the complainant

Commented [PAC14]: STAFF NOTE: Right column to be updated post-August 31 with numbered headers from Areas of Agreement on Barriers and Best Practices.

Accessibility and Equity	•
Rigorous Investigations and Reviews	• Highly-qualified civilian investigators
Outcomes Beyond Discipline and Corrective Action	• The existence of a mediation program

These findings were not recommendations of the PAC. However, they did provide a foundation for discussion that led to those recommendations, and were often cited in the development of the recommendations by the PAC, as defined in the sections below.

Powers and Duties: What the Oversight System can and will do

9. Access to Information

According to the National Association for Civilian Oversight of Law Enforcement (NACOLE), “[w]ithout timely and reliable access to department records, information, and facilities, oversight practitioners and volunteers cannot make decisions that meaningfully address areas of concern.”³⁰ The Police Accountability Commission worked within the parameters outlined in City charter and understood through their research the importance of access to information in regards to thorough, objective investigations. The [PAC](#) approved the Areas of Agreement on Access to Information on January 26, 2023.³¹

Requirements:

The Portland City Charter, as approved by voters, grants the new Oversight System the following authorities regarding access to information:

- The Board will have “the power to subpoena and compel documents”³²
- “[T]he authority and ability to gather and compel all evidence, to access all police records to the extent allowed by federal and state law, and the ability to compel statements from witnesses including officers.”³³
- “[T]he power to compel sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to completely and truthfully answer all questions.”³⁴

Decisions:

The PAC made several key decisions that would outline the new oversight system’s ability and authority to access records, body worn camera footage, and witness testimony:

- The [Oversight Board System](#) will have direct access to all bureau information and records similar to the current access given to the Independent Police Review.³⁵
- The Board shall have access to database networks that the Police Bureau has access to, such as the Criminal Justice Information Systems.
- The Board will be provided with means of safely securing both physical and electronic information.
- If medical information must be obtained for an investigation, the information will be limited to the scope of the complaint and all requests will comply with federal HIPAA laws.
- The [Board Oversight System](#) will have access to unedited Body Worn Camera footage.

³⁰ Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 66. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

³¹ <https://www.portland.gov/police-accountability/events/2023/1/26/police-accountability-commission-meeting>

³² [Portland City Charter §2-1007 \(a\)](#)

³³ [Portland City Charter §2-1007 \(c\)](#)

³⁴ [Portland City Charter §2-1007 \(d\)](#)

³⁵ [Portland City Code §3.21.070 B-C](#)

- PPB Officers compelled to testify must comply with that request within 48 hours, to the extent that it is consistent with applicable law and collective bargaining agreements.

Key Decision: Access to Police Records

The PAC agreed that the Board shall have direct access to all bureau information and records in accordance with applicable federal and state law. Currently, IPR has the authority to access PPB information and records,³⁶ however the right should be expanded to specify direct access for the Oversight System. The Oversight ~~system~~ System will also have access to database networks that the Police Bureau has access to such as the Criminal Justice Information Systems. Providing the Board the authority to access police databases is based on NACOLE's recommendations for effective practices, which recommends that "a civilian oversight agency should have direct access to vital databases to the greatest extent possible."³⁷ This practice may benefit both the Portland Police Bureau and the oversight Board; as NACOLE indicates that "a law enforcement agency that provides such access signals a strong commitment to transparency, accountability, and support for civilian oversight."³⁸

Key Decision: Body Camera Footage

The ~~Board~~ Oversight System will have access to Body Worn Camera footage to ensure comprehensive, timely investigations into incidents which were documented using body-worn cameras and which may be subject to a complaint the board investigates. In order to maintain the integrity of the investigation, all body camera footage provided to the Oversight System ~~Board~~ will be available unedited. The PAC agreed to this decision in January 2023, prior to the April 2023 agreement ~~most recent negotiations~~ between the PPA and the City of Portland regarding the implementation of the body worn camera pilot program, ~~which concluded on April 26, 2023.~~³⁹

Key Decision: Compelling Testimony

The PAC detailed how the oversight board will implement Charter 2-1007(c) and compel testimony as needed to complete its investigatory functions. The Board will have the authority to compel PPB officer testimony, and to the extent that it is consistent with applicable law and collective bargaining agreements, the officer must comply with that request within 48 hours. If a PPB employee refuses to attend an investigative interview after being notified to do so, the Police Chief, Bureau of Human Resources (BHR), or other appropriate authority shall direct

³⁶ [Portland City Code §3.21.070](#) (J)

³⁷ Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 96. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

³⁸ Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 97. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

³⁹ See [Portland Police Bureau Body Worn Camera Project Information](#)

Commented [PAC15]: Commissioner question (Debbie): should this say "investigators" instead of "Board"?

814 them to attend and answer questions truthfully. The refusal to truthfully and completely
815 answer questions may result in discipline for the officer.

816
817 **Key Decision: Subpoena Power**

818 [The PAC outlined methods by which the Oversight System will implement the authority to](#)
819 [subpoena witness testimony, and the production of records.](#) Efforts to compel officer testimony
820 will be made through the administrative process first, and only if those efforts were
821 unsuccessful would the Board issue a subpoena. According to NACOLE, an investigation focused
822 oversight agency “must be able to compel an officer to appear for an interview, and similarly
823 must be able to obtain other forms of evidence, like medical records and private video, by
824 issuing subpoenas.”⁴⁰ The authority of an oversight system to issue subpoenas is not a novel
825 idea; according to the NACOLE Civilian Oversight Agency Directory, many other oversight
826 agencies have the authority to issue subpoenas, including for sworn law enforcement officers.
827 Cities that utilize this practice include, but are not limited to, Washington DC, Chicago, Seattle,
828 San Diego, New York City, and San Francisco,⁴¹ and according to the NACOLE Civilian Oversight
829 Agency Database survey, “52 percent of agencies reported they were authorized to issue
830 subpoenas.”⁴²

⁴⁰ Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 94. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

⁴¹ National Association for Civilian Oversight of Law Enforcement [Civilian Oversight Agency Directory](#)

⁴² Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 99. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

10. Officer Accountability

The Police Accountability Commission was tasked with detailing the workflow of the investigation process, procedures after the completion of investigations, the appeal process, and the application of discipline.⁴³ In accordance with the [2021-2025 Portland Police Association Contract](#)⁴⁴ and US Department of Justice Settlement Agreement,⁴⁵ the Police Accountability Commission has designed an outline of a complaint investigation [system process](#). The Areas of Agreement on Officer Accountability⁴⁶ were adopted by the PAC in February 2023. The new system was envisioned by the PAC to be more straightforward, more comprehensive, and more supportive of complainants than the current oversight system. [Currently, cases/complaints routinely shift among four systems; in the new process, cases will be consolidated into one system.](#)

Requirements:

The Portland City Charter mandates the following:

- The Board’s mission is to “investigate Portland Police Bureau sworn employees and supervisors thereof, promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board...”⁴⁷
- The Board will have “authority to exercise independent judgment in performing all legally assigned powers and duties.”⁴⁸
- The Board will receive and investigate complaints, and to “issue disciplinary action up to and including termination for all sworn members and the supervisors thereof...”⁴⁹

⁴³ [Portland City Council Resolution 37548 Ex. A](#) (2021)

⁴⁴ [City of Portland Collective Bargaining Agreement with Portland Police Association](#), Art. 62.7:

“62.7 The parties acknowledge that when the City is prepared to present the terms that will commence the Portland Community Police Oversight Board, the City will provide notice to the Association prior to implementation. The City and the Association will comply with any bargaining obligations that may exist under the PECBA consistent with the procedures of ORS 243.698.”

⁴⁵ [United States of America v. City of Portland](#), §VIII:

“PPB and the City shall ensure that all complaints regarding officer conduct are fairly addressed; that all investigative findings are supported by a preponderance of the evidence and documents in writing; that officers and complainants receive a fair and expeditious resolution of complaints; and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair and consistent. The City and PPB seek to retain and strengthen the citizen and civilian employee input mechanisms that already exist in the PPB’s misconduct investigations by retaining and enhancing IPR and CRC as provided in this Agreement.”

Paragraph 195c:

“The City will comply with any collective bargaining obligations it may have related to the Oversight Board, which the City agrees to fulfill expeditiously and in compliance with its obligation to bargain in good faith.”

⁴⁶ [Police Accountability Commission Areas of Agreement on Officer Accountability \(2023\)](#)

⁴⁷ [Portland City Charter §2-1001](#)

⁴⁸ [Portland City Charter §2-1006](#)

⁴⁹ [Portland City Charter §2-1007\(a\)](#)

- The Board will have the authority to investigate all in-custody deaths and uses of deadly force; complaints of force resulting in injury, discrimination against a protected class, violations of constitutional rights; and other complaints as they see fit.⁵⁰

Decisions:

- When the Board receives a complaint or when an incident occurs that requires a Board investigation, it will conduct a preliminary investigation, including conducting an intake interview, and a make a case-handling decision.
- Following a preliminary investigation, the Board may dismiss a case for reasons such as: the complaint does not allege misconduct, the complaint was filed outside the timeline to follow time limits, the complainant withdraws the complaint, or lack of Board jurisdiction of the Board.
- If the complainant expresses an interest in doing so, they may request that the complaint be an "informal complaint." The case would be resolved through discussion with the officer's supervisor and the case would not proceed through the investigatory process.
- There will be a voluntary mediation program for complainants and officers with the goal of mediation being to improve police-community relations.
- Investigations must be ethical, independent, thorough, timely, fair, and impartial.
- Investigations will include interviews; gathering evidence; examining police roll calls, logs, assignments, and other information; and site visits.
- When an incident involves deadly force or a death in custody, the Board will require staff to go to the scene, sit in on interviews conducted for the criminal investigation, and review supervisors and others present at the scene.
- The Board will make the final determination of findings, which will include whether the officer acted within or outside of PPB policy and whether wider, systemic issues need to be addressed.
- Findings are determined using the "Preponderance of the Evidence" Standard.
- If either party disagrees with the Board's findings, they have the right to appeal those findings⁵¹ within 30 days from the issuance of findings.

Key Decision: Complaint Navigators

During the research phase of work, the PAC identified the complexity of the system and the lack of support for complainants as barriers to police accountability.⁵² The PAC agreed that complainants shall have access to a complaint navigator throughout the entirety of the investigative process, and that the complaint navigator will act as a main point of contact for the complainant. The Complaint Navigator will have access to records in order to advise the complainant. Having this resource available will increase the accessibility of the complaint

⁵⁰ [Portland City Charter §2-1008](#)

⁵¹ [Portland City Code §3.21.140 A](#), language to be amended to reflect the change from IPR to CBPA

⁵² [Police Accountability Commission Areas of Agreement on Barriers to Police Accountability, and Best Practices, in the Current System in Portland](#) (2022)

process to community members and will help to foster trust between the community and the Oversight System.

Key Decision: Findings Determinations

The PAC identified the current use of the “reasonable person” standard ~~“currently used in appeals as a barrier to police accountability”~~; therefore, the PAC recommends that the ~~OCPA Board~~ use the “preponderance of evidence standard,” as was also ~~suggested-recommended~~ in Eileen Luna-Firebaugh’s 2008 analysis of IPR.⁵³ Findings will be determined by a panel of the Board that will consist of at least five Board members for most cases, and at least seven Board members for cases involving more severe allegations such as uses of deadly force or in-custody deaths. ~~Findings of the Board findings~~ will fall into one of four categories: “out of policy,” “in policy,” “unfounded,” or “insufficient evidence.” The Board may also add additional findings related to systemic concerns that may arise such as “policy issues,” “training issues,” “supervisory issues,” “communication issues,” or “equipment issues.”⁵⁴ If the Board chooses to include one of the latter, it will recommend revisions to policy or training procedures, or will identify an issue with supervision, communication or equipment that may need to be addressed.

Key Decision: Appeals

The PAC agreed that if ~~either community members or police officers disagree~~~~either party disagrees~~ with the Board’s findings, they have the right to appeal those findings within 30 days from the issuance of findings.⁵⁵ During that ~~30-30-day~~ period, discipline may not be imposed. ~~Appeals are to be held by a panel composed of different Board members than that of the original panel, unless the appeal is based on the discovery of new evidence. Appeals will be heard by a panel composed of Board members.~~

Key Decision: Availability of Mediation & Informal Complaints

The PAC identified the option of mediation as a best practice currently in place in Portland’s oversight system.^{56,57} ~~Mediation was identified as a way to improve police-community relations and build better policies.~~ The PAC agreed that there will be a voluntary mediation program for complainants and officers ~~with the goal of mediation being to improve police-community relations.~~ Mediation will not be an option for complaints involving allegations of use of force, profiling, violations of constitutional rights, or for cases that involve an officer with a pattern of misconduct.⁵⁸ Either party may request that a complaint proceed to the investigation process if they do not feel that mediation was successful.

The complainant will also have the option to resolve the complaint through discussion with the officer’s supervisor without the complaint advancing through the investigation process.

⁵³ Luna-Firebaugh, E. (2008, January 23). Performance Review of the Independent Police Review Division. City of Portland. <https://www.portlandoregon.gov/auditor/article/245276> (p. 119)

⁵⁴ <https://www.portland.gov/police-accountability/pac-areas-agreement-officer-accountability> §C1.B

⁵⁵ [Portland City Code §3.21.140 A](#), language to be amended to reflect the change from IPR to CBPA

⁵⁶ Police Accountability Commission [Areas of Agreement on Barriers to Police Accountability, and Best Practices](#), in [Portland](#) (2022)

⁵⁷ [Portland City Code §3.21.120 A](#)

⁵⁸ [Police Accountability Commission Areas of Agreement on Officer Accountability \(2023\)](#) §F1.B

927
928 **Key Decision: Investigations of Deadly Force Cases and In-Custody Deaths**
929 The ~~Oversight System~~Board and Office will investigate cases involving use of deadly force and
930 in-custody deaths. Investigators will go to the scene, attend witness interviews, and coordinate
931 with criminal investigators and prosecutors during the administrative investigation. Community
932 members subjected to the use of deadly force, or their survivors, shall be considered as
933 complainants with~~will have~~ full rights to appeal the findings.
934

11. Structural Oversight

The PAC worked within the parameters of the City Charter to create processes in which recommended changes to policies or directives may be adopted by the Board and implemented into PPB policy. Policy recommendations are a way to effect systemic change if a consistent issue is identified during the course of the Board's work. According to NACOLE, "[t]he purpose of issuing a policy or training recommendation to the law enforcement agency is to correct specific deficiencies identified..."⁵⁹

Requirements:

- Portland City Charter grants the new oversight Board the "authority to make policy and directive recommendations to the Portland Police Bureau and City Council."⁶⁰
- The Board is authorized to refer policy recommendations the PPB rejects to City Council for consideration and requires Council to vote on whether to accept or reject the recommendation.⁶¹ ~~explains that if the PPB rejects a policy recommendation made the Board, the Board can refer it to City Council who must consider it and vote whether to accept or reject it.~~

Commented [PAC16]: Commissioner suggestion: replace old text with this

Decisions:

- Policy recommendations may be introduced through: Board member proposal, community member proposal, agency policy reviews and audits, systemic findings in individual misconduct cases, reviews of cases, reviews of undesirable police incidents, or directive reviews.
- ~~The Board may make policy recommendations based on individual misconduct cases and reviews of complaints.~~
- The Board will take community input at public meetings and will then decide whether ~~or not~~ to adopt the recommendation for submission to the Portland Police Bureau.
- The Police Chief will have 60 days to respond in writing to a recommended policy. If the Chief does not accept the finding, the City Council must vote whether to accept the recommended policy.
- The Bureau of Human Resources shall reserve at least two seats for representatives chosen by the Board at collective bargaining negotiations.
- The Board may facilitate a public review of the PPB proposed budget requests prior to their submission.
- The Board will create avenues for ongoing analysis of closed investigations and continual improvement of Board policies.
- The Board may officially endorse legislation or policy ideas.

Key Decision: Initiation of Policy Recommendation Process

⁵⁹ Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 120. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

⁶⁰ [Portland City Charter §2-1007\(b\)](#)

⁶¹ [Portland City Charter §2-1007\(b\)](#)

Policy recommendations presented to the Board for consideration policy recommendations should outline the change being recommended and direct the Board staff on additional action needed to advocate for the change. The Board will have the authority to engage in analysis of police data related to PPB procedures, review current PPB policies, and propose new policies or modifications to current policies. The Board may also make recommendations based on individual misconduct cases and reviews of complaints. The Board will also have the authority to review training materials while formulating recommendations.

Key Decision: Policy Recommendations may be initiated through at least six processes.

Policy recommendations may be initiated through any of the following pathways: Board member proposal, community member proposal, agency policy reviews and audits, systemic findings in misconduct cases, reviews of undesirable police incidents, or directive reviews. This allows the Board to consider community input on PPB policies while determining whether to recommend a change in policy or procedure. Community involvement in this process will help to build trust between the community, the Oversight System, and PPB.

Key Decision: Process for Board Approval of Policy Recommendations & Implementation

Following any of the six entry points identified above, the proposed policy change will be presented to the Board for consideration and the Board will take community input at public meetings while the recommendation is under consideration. The Board will decide whether or not to adopt the recommendation for submission to the Portland Police Bureau. If the Board chooses to recommend a policy change to the PPB, the Chief will have 60 days to respond in writing. In a 2021 report, NACOLE recommends that the oversight body require written responses to recommendations within a predetermined timeframe. The report explains that this practice “can improve transparency and accountability.”⁶² If the Police Chief rejects a recommendation or fails to respond within 60 days, the Board may place the recommended policy on the City Council agenda within 15 days. The City Council will then vote on that recommendation within three months of its presentation to Council. If a recommendation is accepted by PPB or City Council, the Board shall monitor the implementation of the policy change. This is in agreement with NACOLE’s recommendation that “the oversight agency should follow-up on its status, and assist with its implementation where possible.”⁶³

Key Decision: Collective Bargaining & PPB Budget Review

The Bureau of Human Resources shall reserve at least two seats for representatives chosen by the Board at collective bargaining negotiations. The Board’s ability to make policy recommendations shall include proposals for Collective Bargaining contracts. The Board may

⁶² Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 132. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

⁶³ Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 133. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

1010 facilitate a public review of the PPB proposed budget requests prior to their submission. [In](#)
1011 [Seattle, the oversight body participates in the agenda-setting process of collective bargaining.](#)⁶⁴
1012

1013 **Key Decision: Oversight of Accountability Systems & Continual Improvement**

1014 The Board will hire [qualified staff, a team, or independent expert\(s\) to review personnel](#) to
1015 review closed investigations related to officer-involved shootings and in-custody deaths on an
1016 ongoing basis, and these reviews may lead to policy change recommendations. The Board will
1017 also ensure that staff, a team, or an independent expert will examine the Board's performance
1018 and policies along with the City Charter and City Code in order to ensure continual
1019 improvement of the Board's performance. As NACOLE explains, "evaluations allow for
1020 continuous improvement and ensure that the agency is meeting the needs of the
1021 community."⁶⁵
1022

Commented [PAC17]: Commissioner Suggestion: replace
"personnel" with language directly from AoA

⁶⁴ [Add citation](#)

⁶⁵ Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 142. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

Structure and Details: How the Board is Set Up to Meet Its Goals

[12. Board Membership](#)

Requirements:

The PAC was tasked with developing a structure for Board Membership that [fits](#) within the requirements of the Charter, as approved by voters:

- A Board that is appointed by the City Council and cannot be removed without cause⁶⁶
- A requirement to establish, in Code, the length of a Board term, and a process for filling vacancies for the remainder of unfinished terms⁶⁷
- Membership that will “ensure” representation and diversity, in particular of “those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism”⁶⁸
- A Board that cannot have current or former employees of a law enforcement agency, or the immediate family of current employees of a law enforcement agency, as members⁶⁹

Decisions:

The PAC made several key decisions in developing its Areas of Agreement on Board Membership, including: ⁷⁰

- Size of the Board: 33 members, plus at least 5 alternates
- Panels to make determinations on individual cases of potential officer misconduct, consisting of at least 5 members of the Board, with more serious cases having larger panels. A majority of the total number of [Board-panel](#) members is the voting threshold for a Panel to adopt findings or impose discipline.
- Selection criteria for the Board, which include the Charter requirements as well as diversity of ethnicity, race, age, gender identity, ability, and professional and socioeconomic backgrounds, as well as a preference for those affected by over-policing. Desired qualifications include experience with community outreach [and relevant subject matter expertise](#). The PAC also applied City guidance that volunteers must live, work, play, attend school, or worship within the City of Portland to the Board, with at least 12 months of history required.
- A nomination and screening process which allows for Board staff to screen for eligibility prior to the City Council’s appointment of new members, as well as allowing the Board to create a nominating committee (including community members beyond those already on the Board) for this purpose at its discretion.
- A member support structure which will help the Board achieve its required diversity and representation goals, promote equity within the process, and reduce barriers to Board membership caused by socioeconomic status, mental health concerns, and other

⁶⁶ [Portland City Charter §2-1002](#)

⁶⁷ [Portland City Charter §2-1002](#)

⁶⁸ [Portland City Charter §2-1002](#)

⁶⁹ [Portland City Charter §2-1003](#)

⁷⁰ [Police Accountability Commission Areas of Agreement on Board Membership](#) (2023)

- 1061 factors. This includes a modest compensation package for volunteers, reimbursement
1062 for costs incurred by volunteers, and mental health support.
- 1063 • A training and onboarding process including staff-coordinated trainings on both police
1064 practices and on oversight practices, as well as peer training from continuing members
1065 for incoming members
 - 1066 • A term length of three years, staggered with 11 terms ending and 22 continuing each
1067 year, with a process for reappointment and a provision that outgoing members will
1068 continue to serve until their replacement is appointed by Council.
 - 1069 • Causes City Council may use to remove a member of the Board, including non-
1070 participation, undisclosed major conflicts of interest, breach of confidentiality, and
1071 misconduct.
 - 1072 • Restrictions on membership, including the Charter prohibition related to law
1073 enforcement membership as well as requirements around conflict of interest with other
1074 public offices held and around other police-focused government boards.
 - 1075 • Requirements for how many members need to be present to take action (quorum),
1076 including a majority of the board for full-board meetings generally, a two-thirds majority
1077 of the board for significant members such as recommending a member to Council for
1078 removal, a majority of sub-committee members for sub-committee meetings, and a
1079 majority of the members of a panel for panel meetings and hearings.
 - 1080 • Authority to create Bylaws, which would include:
 - 1081 ○ The ability to create sub-committees consisting of at least 5 members of the
1082 Board.
 - 1083 ○ Voting thresholds other than that for Panels to adopt findings or impose
1084 discipline
- 1085

1086 **Key Decision: 33-member Board for Diversity, Representation, and Additional Capacity**

1087 The PAC evaluated Portland’s current system, as well as jurisdictions across the country, in
1088 developing its proposals. One of the challenges in Portland and around the country that were
1089 identified to the PAC is a high workload and low levels of support for volunteers who serve on
1090 police oversight boards. Additionally, the PAC’s own experience, with 20 members and a high
1091 workload, has informed the recommendations. The PAC developed, in its current draft, a 33-
1092 member oversight board based on factors including peer support for members, representing
1093 the range of viewpoints and backgrounds in the city, and practical factors (such as having an
1094 odd number of members to minimize the likelihood of tied votes).

1095
1096 The PAC estimates the new system will handle roughly 400 cases per year, with as many as 240
1097 going to a Hearings Panel (proposed Code section 35D.180), a subset of the Board. Because the
1098 PAC strongly recommends that Board members be volunteers rather than paid employees, the
1099 Board will need to be of a substantial size to equitably distribute the workload (proposed code
1100 section 35B.010).

1101
1102 As stated in the Portland City Charter, “The Board shall make provisions to ensure its
1103 membership includes representation from diverse communities...particularly those who have

Commented [PAC18]: STAFF NOTE: Moved down from Executive Summary.

1104 experienced systemic racism and those who have experienced mental illness, addiction, or
1105 alcoholism.”⁷¹ Through their research and discussions, the PAC agreed that the Board members
1106 should also be diverse in regard to ethnic, racial, age, gender identity, ability, and professional
1107 and socioeconomic backgrounds. According to NACOLE, “[t]he diversity and representatives of
1108 an oversight board or commission is critical to the oversight system’s legitimacy and the
1109 public’s confidence that it will address issues of community concern.”⁷² This section also
1110 includes the direction that some Board members should possess subject matter expertise and
1111 support for police accountability, as well as explains restrictions on Board membership.

1112

1113 **Key Decision: Panels of 5 or more Board Members to Consider Individual Cases**

1114 The PAC discussed that while some oversight board decisions such as hiring a Director,
1115 conducting broad reviews of a police directive in order to create a policy recommendation, or
1116 drafting Board bylaws would require the full oversight board, individual cases would be better
1117 served by a subset of the board considering the facts, investigation, and allegations. As a result,
1118 the recommendation includes Panels, so that **smaller groups of Board members, not all 33**
1119 **members, would hear each individual case.**

1120

1121 Similar to Portland’s current Police Review Board process, where 5 individuals consider most
1122 cases and 7 individuals hear cases related to more significant matters, the panels would consist
1123 of 5 or more Board members for most cases, with more significant cases such as use of deadly
1124 force would involve a larger panel of Board members.

1125

1126 **Key Decision: Modest Member Support, Volunteer-Only Board**

1127 In developing recommendations for Board member support and compensation, the PAC
1128 carefully considered the types of information that Board members would be reviewing and
1129 identified the need to remove barriers to service. The PAC agreed that the Board members
1130 should be strictly volunteers, however understood that for an individual to commit to a three-
1131 year, time-intensive role, they should receive some compensation for their time. This would
1132 also allow members of the community who may not usually be able to participate in volunteer
1133 work to serve on the Board.

1134

1135 The compensation amount recommended by the PAC aligns with federal guidelines for what
1136 constitutes volunteer work and would not exceed the equivalent of 20% of the hourly
1137 compensation of a comparable City employee. In addition ~~to the reduction (by 80%) of the~~
1138 ~~hourly compensation~~, the Board member would also be paid less due to volunteering for
1139 significantly fewer hours than an employee works. In total, the range of financial compensation
1140 for an individual Board member, annually, would be \$500-\$7,400 in the Board’s estimates, with
1141 an average of \$5,314. This amount is enough to help reduce barriers to volunteering, without
1142 being a primary source of income. The practice of providing volunteer board members with

⁷¹ [Portland City Charter §2-1002](#)

⁷² Vitoroulis, Michael, Cameron McElhiney, and Liana Perez. 2021. Civilian Oversight of Law Enforcement: Report on the State of the Field and Effective Oversight Practices. Washington, DC: Office of Community Oriented Policing Services. p. 92. Retrieved from: <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0952-pub.pdf>

1143 some form of compensation is not unique and can be found in oversight systems such as those
1144 in Louisville, KY; Baltimore, MD; Anne Arundal County, MD; Philadelphia, PA; Denver, CO; and
1145 others.⁷³ Several other jurisdictions provide their oversight system members significantly higher
1146 compensation (see Appendix C4).

1147
1148 The PAC also realized that in reviewing potentially traumatic and emotional videos, reports, and
1149 records, it would be necessary to provide mental health care to Board members at no cost to
1150 the member. [There is precedent for providing mental health care for civil service volunteers, as](#)
1151 [the PAC identified jurisdictions where criminal trial jurors who are required to review](#)
1152 [especially-traumatic evidence are provided mental health care](#) The PAC identified the practice of
1153 [providing mental health care for civil service volunteers in criminal trials in which jurors have](#)
1154 [been required to review especially traumatic evidence.](#)⁷⁴

1155
1156 **Key Decision: Three-Year Term Lengths with Council option to reappoint**

1157 The PAC proposed that Board members will serve staggered three-year terms to allow new
1158 members to be trained and onboarded by existing members. The PAC agreed that it was
1159 imperative that institutional knowledge be retained and passed on to new Board members to
1160 keep the system running without interruption. Board members will be able to apply to renew
1161 their terms two times, and if their terms should expire, will continue to serve until their
1162 replacement is appointed by Council.

1163
1164 **Key Decision: Selection Criteria**

1165 The PAC agreed that candidates for the Board must live, work, play, attend school, or worship
1166 within the City of Portland (which is standard City policy) for at least 12 months prior to their
1167 appointment. They built upon the Charter mandates by adding criteria to ensure that Board is
1168 representative in terms of ethnicity, race, age, gender identity, ability, and professional and
1169 socioeconomic backgrounds. This will ensure community representation and ground the Board
1170 in the Portland community, so that Board members understand local history and context.

1171
1172 **Key Decision: Training on both police and oversight topics**

1173 The PAC agreed that members of the Oversight Board would need to have training as they join
1174 the Board, focused on two key areas: PPB and the oversight system. The PAC wants to ensure
1175 that Board members understand the Portland Police Bureau, and what training, policies, and
1176 practices apply to PPB officers, to ensure a fair and impartial pool of Board members that may
1177 end up serving on panels hearing cases of possible misconduct. This training can include law
1178 enforcement experts. Additionally, to ensure that the Board members are able to fairly and
1179 impartially complete their duties, the PAC proposed training on law enforcement oversight
1180 itself, including case review, relevant law and policy, and on the flowchart of investigations.

1181
1182 **Key Decision: Specific causes for member removal**

⁷³ See Appendix C4: Staff Research Memo on Board Member Compensation for details.

⁷⁴ See Appendix C3: Staff Research Memo on Mental Health Support for Jurors

1183 The PAC outlined reasons that Board members may be removed from service by City Council,
1184 including but not limited to unexcused absences, conflicts of interest, breach of
1185 confidentiality,⁷⁵ failure to engage in training, misconduct,⁷⁶ etc. Members of the PAC
1186 developed this system to ensure that oversight board members are active enough to provide
1187 capacity for the oversight board's tasks and avoid overburdening active members by making
1188 them take on the work of inactive colleagues. Breach of confidentiality was a concern of both
1189 the PAC and of City Council, who advised the PAC to ensure confidential information stays
1190 confidential; it is also a vital part of the oversight board's compliance with state and federal
1191 law.

1192 13. Oversight Staff

1193 The Police Accountability Commission approved the Areas of Agreement on Oversight Staff on
1194 May 8, 2023.⁷⁷ The document outlines the structure of the Office of Community-based Police
1195 Accountability and was created in compliance with City Charter section 2-10.

1196 Requirements:

- 1197 • The Board will hire and manage a Bureau Director who will hire and manage
1198 professional staff of the Board.⁷⁸
- 1199 • The Director is a "Bureau Director."⁷⁹
- 1200 • "Funding for the Board shall be proportional to no less than 5 percent of the Police
1201 Bureau's Annual Operational Budget."⁸⁰
- 1202 • The office will be located outside of a Portland Police Bureau facility⁸¹

1203 Decisions:

- 1204 • The office will be housed apart from any agency that has a law enforcement or public
1205 safety component as part of its function and will be accessible to the public.
- 1206 • The Director will be selected through a community process.
- 1207 • A hiring committee composed of Board members will screen applicants and interview
1208 top candidates before voting on a hiring decision.
- 1209 • Staff of the oversight system will conduct public education on its role and engage with
1210 the community through events and outreach efforts.
- 1211 • Staff positions will include the following: policy, mediation, investigation, records,
1212 community engagement, intra-governmental affairs, data analysis, equity and inclusion,
1213 public affairs, complaint navigators, and administrative roles as deemed necessary.

⁷⁵ Adapted from [Portland City Code §3.20.140 C1.a.\(1\)\(c\)\(v\)](#)

⁷⁶ Adapted from [Portland Bureau of Human Resources Administrative Rules §2.02](#)

⁷⁷ <https://www.portland.gov/police-accountability/events/2023/5/8/police-accountability-commission-meeting>

⁷⁸ [Portland City Charter §2-1005](#)

⁷⁹ [Portland City Charter §2-1005](#)

⁸⁰ [Portland City Charter §2-1004](#)

⁸¹ [Portland City Charter §2-1006](#)

- 1214 • In order to maintain the independence of both the Board and PPB, the Board shall not
1215 hire current or former police officers as staff.

1216 **Key Decision: Logistics Within the City**

1217 The PAC agrees that the Director will comply with the City's purchasing procedures but shall
1218 have discretion in making decisions about expenses.⁸² As stated in City Charter, "[t]he physical
1219 office of the Board shall be located outside of a Portland Police Bureau facility."⁸³ In addition,
1220 the PAC agreed that the office will be housed apart from any agency that has a law
1221 enforcement or public safety component as part of its function and will be in a location
1222 convenient to the public. While determining the guidelines for the office location, the PAC
1223 agreed that if the office were to be housed in a location with another public safety related
1224 agency, complainants may feel intimidated or uncomfortable being present in that location.
1225 The PAC also agreed that this would help to maintain the Bureau's independence from other
1226 city entities while still serving the community. These recommendations would allow
1227 complainants to feel more comfortable in a neutral location than they may otherwise.

1228 **Key Decision: Hiring of the Bureau Director Through a Community-led Process**

1229 The Board will hire and manage a Bureau Director through collaboration with the Bureau of
1230 Human Resources. A hiring committee composed of Board members will screen applicants and
1231 interview top candidates before voting on a hiring decision.⁸⁴ The hired candidate will have
1232 experience in administration, public policy, and a working knowledge of the criminal justice
1233 system. The Director will hire and manage all other professional staff of the Office of
1234 Community-based Police Accountability.⁸⁵ Once a director is hired, the Board will conduct their
1235 annual performance reviews; the Director may only be removed by a vote of a supermajority of
1236 the Board.

1237 **Key Decision: Staff Structure, Qualifications, Duties, and Board Involvement in Hiring**

1238 The PAC agreed that in order to maintain the independence of both the Board and PPB, the
1239 Board shall not hire current or former police officers as staff.⁸⁶ The PAC also agreed that to
1240 maintain its independence, the Board may hire independent legal counsel. Other staff positions
1241 will include roles in the following: policy, mediation, investigation, records, community
1242 engagement, intra-governmental affairs, data analysis, equity and inclusion, public affairs, and
1243 other administrative roles as deemed necessary. The director will also hire complaint navigators
1244 that will assist complainants with navigating the complaint process. Through their research and
1245 time spent hearing from the community, the PAC determined that complaint navigators will be

⁸² [Portland City Code §3.21.060 B](#), language to be amended to reflect the change from IPR to the Community Board for Police Accountability and Office of Community-based Police Accountability

⁸³ [Portland City Charter §2-1006](#)

⁸⁴ Adapted from [Portland City Code 3.21.040](#)

⁸⁵ [Portland City Charter §2-1005](#)

⁸⁶ Adapted from the following: [District of Columbia Official Code §5-1106](#), [San Francisco City Charter §4.136](#), [Metro Nashville Community Oversight Board Bylaws, Art 9](#), and [Denver City Ordinance Art XVIII §2-371\(6\)](#)

Commented [PAC19]: Add citation here to other cities that do this. Refer to work session notes.

1246 a crucial part of the new oversight system and will create a more equitable and accessible
1247 experience for community members that file complaints. The lack of an advocate or point of
1248 contact for community members in the current oversight system was identified as a barrier to
1249 accountability by the PAC.⁸⁷ The PAC is recommending that staff be trained on issues specific to
1250 their roles but that they not seek guidance or training from PPB investigators unless necessary.
1251 The PAC decided to leave specific qualifications for staff open for the new system to determine,
1252 but does recommend that candidates have experience working with community members, in
1253 public defense or civil rights areas, investigations, policy, etc. The PAC also determined that it
1254 would be beneficial for the staff of the oversight system to conduct public education on its role
1255 and engage with the community through events and outreach efforts. In order to build trust
1256 between the community and PPB, it is necessary to educate the public on the accountability
1257 system in place and how to navigate that system.

1258 **Key Decision: Budget**

1259 The decision to guarantee a minimum budget proportional to 5% of the Police Bureau budget
1260 to the oversight system was not a PAC decision, but was made the voters in approving Charter
1261 2-10. The PAC notes that this would not reduce funding for the Police Bureau, but rather from
1262 the General Fund: for each dollar allocated to the Portland Police Bureau, an additional five
1263 cents at minimum would be allocated to the oversight system.

1264
1265 With the projected workload and mission, the Board will need staff working on issues including
1266 investigations/hearings support, policy issues, mediation, records, outreach/community
1267 engagement, data analysis, communications, and more. There are also several other financial
1268 needs such as office and meeting space, and technology. The PAC believes that the estimated
1269 budget of \$12.5 million, equivalent to 5% of the Police Bureau's budget, will be necessary to
1270 cover these costs (Charter Section 2-1004).
1271

⁸⁷ Police Accountability Commission [Areas of Agreement on Barriers to Police Accountability, and Best Practices, in Portland](#) (2022), see also Appendix E1

14. Reporting and Transparency

The Police Accountability Commission approved Areas of Agreement on Reporting and Transparency on April 13, 2023.⁸⁸ Transparency, as described by Eileen Luna-Firebaugh in her 2008 assessment of Independent Police Review, is “the right of the public to know the public’s business,” and is “essential if a civilian oversight agency is to be effective.”⁸⁹ The PAC understands and uplifts the importance of transparency; it builds trust between the agencies and the community, allows for the community to be engaged and support the work of the agencies, and ensures that the police, state, and other governing bodies are held accountable to the community’s standards. In 2022 the PAC identified the lack of transparency in the current oversight system as a barrier to police accountability.⁹⁰ Additionally, NACOLE includes “Public reporting and transparency” as one of its thirteen principles for effective oversight.⁹¹ The PAC’s recommendations will continue the practice of transparency in meetings, public ability to give input, regular reporting, and access to information and data. While there are unique challenges associated with transparency as the oversight system becomes community-led, the recommendations will also allow access to some hearings that are currently closed to the public.

Requirements:

- City Charter 2-1007: “The Board shall make provisions for regular and open meetings, public transparency, and reporting on the Board’s activities.”⁹²

Decisions:

- Meetings will be public to the extent allowable by law.
- The Community Board for Police Accountability will regularly host local community members and public officials during meetings.
- Community Board for Police Accountability will publish an annual report.
- The Board will develop interactive dashboards around data and policy recommendations and will make these available online.
- The Board and Staff will widely distribute complaint forms in languages and formats accessible to the public.

Key Decision: Transparency in Meetings and Hearings

⁸⁸ <https://www.portland.gov/police-accountability/events/2023/4/13/police-accountability-commission-meeting-w-commissioner>

⁸⁹ Luna-Firebaugh, E. (2008, January 23). Performance Review of the Independent Police Review Division. City of Portland. <https://www.portlandoregon.gov/auditor/article/245276> (p. 33)

⁹⁰ Police Accountability Commission [Areas of Agreement on Barriers to Police Accountability, and Best Practices, in Portland](#) (2022), see also Appendix E1

⁹¹ National Association for Civilian Oversight of Law Enforcement. (n.d.). Thirteen principles for effective oversight. National Association for Civilian Oversight of Law Enforcement. <https://www.nacole.org/principles>

⁹² [Portland City Charter §2-1007\(c\)](#)

1305 Meetings will be public to the extent allowable by law and will be subject to the Oregon Public
1306 Meetings Law, ORS 192.610 – 192.710.⁹³ The Director will provide updates at full Board
1307 meetings and there will be time for community input at each meeting. The Community Board
1308 for Police Accountability will regularly host community members and public officials during
1309 meetings in order to maintain a balanced perspective. While some matters may be addressed in
1310 executive session, , any final action will be made in open session, consistent with applicable
1311 law.

1312

1313 **Key Decision: Regular Reporting to the Public and City Council**

1314 The Community Board for Police Accountability will publish an annual report that will be
1315 presented at a public meeting as well as to City Council. The PAC outlined that the annual
1316 report contains the following sections: overview, information about the oversight system,
1317 policy, complaints of officer misconduct, and outreach and user satisfaction.

1318

1319 In addition, the PAC agreed that the Board will hire staff or an independent expert to review
1320 closed investigations of officer-involved shootings, in-custody deaths, and uses of deadly force
1321 which will be reported on and presented to the public and City Council. The PAC agreed that
1322 raw data will be available to the public, however it will be de-identified consistent with existing
1323 legal standards. In order to make the data accessible, the PAC determined that the Board will
1324 develop interactive dashboards around data and policy recommendations to allow it to be
1325 visualized in different ways. Although the PAC agreed upon the importance of transparency and
1326 sharing information with the public, the Director will act to protect the confidentiality of Board
1327 members, complainants, PPB officers, and witnesses and to remain in compliance with
1328 applicable public records law and collective bargaining agreements.

1329

1330 **Key Decision: Accessibility and Community Engagement**

1331 Because a lack of accessibility was identified as a barrier to police accountability,⁹⁴ the PAC is
1332 recommending that any communication by the Board be written in clear language, follow best
1333 practices regarding inclusive writing,⁹⁵ and prioritize populations most at risk. The PAC
1334 recommends that the Staff and Board members widely distribute complaint forms in languages
1335 and formats accessible to the public, provide education on filing complaints, and hold public
1336 meetings to hear community concerns. Information about the Board will also be available on
1337 PPB business cards that are distributed to community members.⁹⁶

1338

⁹³ Adapted from [Portland City Code §3.21.090 A.1](#)

⁹⁴ Police Accountability Commission [Areas of Agreement on Barriers to Police Accountability, and Best Practices, in Portland](#) (2022), see also Appendix E1

⁹⁵ City of Portland. (2022, October). Inclusive writing guide. Portland.gov.

<https://www.portland.gov/officeofequity/equity-resources/inclusive-writing-guide>

⁹⁶ [Portland City Code §3.21.110 A.1.c](#), language to be amended to reflect the change from IPR to CBPA and OCPA

1339 The Oversight System as Part of Government, and Transition Plan

1340 15. Broader System: The Board's relationship with other government entities

1341 The commission was tasked with determining appropriate involvement between the new
1342 system and other parts of City government, as well as relationships with other levels of
1343 government as part of ensuring the oversight board and bureau can be effective in completing
1344 their duties.⁹⁷ The commission was also tasked with determining how implementation of the
1345 new system will impact parts of the current police oversight system in the City, including
1346 determining which parts will continue or cease to function, and how.⁹⁸

1347 The PAC envisioned that the new Oversight System will have working relationships with local,
1348 state, and federal governments, as well as with other oversight entities in order to build trust,
1349 maintain credibility in the field, and to ensure continual improvement of its processes. The PAC
1350 also recommends that the Oversight System build and maintain productive relationships with
1351 other oversight systems and attend trainings and conferences that can help the Board perform
1352 its duties more effectively.

1353 **City Government:**

1354 The new Oversight System will be bound by all relevant law and regulations, including at the
1355 federal, state, county, and city levels. It will be a part of the City of Portland government, with
1356 independent judgment guaranteed in the Charter.⁹⁹ As part of the City Government, the
1357 Oversight System will function as an independent Bureau (Office), with the Community Board
1358 for Police Accountability managing the Bureau Director.

1359 **County Governments:**

1360 The Board will collaborate with the local District Attorney's Offices to the extent allowable
1361 under law. The Board will maintain a working relationship with the local county Sheriff's
1362 Offices, corrections agencies, and relevant oversight groups related to those organizations. The
1363 Board will exchange relevant information with the counties' Medical Examiner offices and may
1364 seek membership for a representative in Multnomah County's local Public Safety Coordinating
1365 Council.

1366 **State and Federal Governments:**

1367 It will also have strong working relationships with many other layers of government as
1368 described below. As per the Areas of Agreement on Structural Oversight:¹⁰⁰

⁹⁷ Referenced in Resolutions 37527 and 37548.

⁹⁸ [Portland City Council Resolution 37548 Ex. A](#) (2021)

⁹⁹ [Portland City Charter §2-1006](#)

¹⁰⁰ [Police Accountability Commission Areas of Agreement on Structural Oversight 5H](#) (2023); see also: Appendix E8 of this report

- 1369 • “The Board may officially endorse legislation/policy ideas and shall have the authority to
1370 testify in front of relevant government bodies and communicate its policy positions with
1371 employees and elected or appointed officials at any level of government.”
1372 • The oversight board will make clear in its discussions with any level of government that
1373 it is representing its own views, and not serving as a representative of the City
1374 government.

1375 16. Transition Plan

1376 Requirements:

- 1377 • “This system will replace and fundamentally change how police oversight is conducted
1378 in the City of Portland. A transition plan is required to switch from the current systems
1379 to the new system.”¹⁰¹

1380 Decisions:

- 1381 • The implementation of the Transition Plan will be managed by a team made up of staff
1382 and volunteers. This team will be selected following the 60-day period which Council has
1383 to propose amendments to City Code to address the PAC’s proposal.¹⁰²
1384 • Transition Staff will be managed by a City employee known as the “Transition Manager.”
1385 • Transition staff will appoint a group of transition volunteers, drawing candidates from
1386 the pool of former members of the PAC and current or former members of the CRC.
1387 • Funding should be made available during the pre-transition period to allow for the hiring
1388 of Staff and management of the volunteers of the Transition Team.
1389 • The Transition Team will review Board member applications and submit eligible
1390 candidates to City Council for consideration; it is requested that Council determine
1391 appointees within 4 weeks.
1392 • CBPA members appointed during the Transition period will be appointed for the
1393 duration of the Transition period and an additional 1, 2, or 3 years in order to set up the
1394 timeline for staggered 3-year terms outlined in the Areas of Agreement on Board
1395 Membership.^{103,104}
1396 • Once Board members are appointed, they will work with the transition staff to recruit
1397 and hire a Director.
1398 • The Director will prioritize the hiring of intake staff, complaint navigators, and
1399 investigators.
1400 • IPR Staff will have preference in hiring for employment at the Office of Community-
1401 based Police Accountability.

¹⁰¹ [Portland City Council Resolution 37548 Exhibit A](#)

¹⁰² [United States v. City of Portland Settlement Agreement](#) §195.b

¹⁰³ [Police Accountability Commission Areas of Agreement on Board Membership](#) (2023)

¹⁰⁴ See Also: Appendix E9 of this document

- 1402 • Once the new Oversight System is functional, all cases pending before IPR, PRB, or the
1403 CRC within the jurisdiction of the new system will be transferred to the Community
1404 Board for Police Accountability for resolution.

1405 **Key Decision: Implementation of a Transition Team**

1406 A “Transition Team” composed of both staff and volunteers will be selected to implement the
1407 Transition Plan and transfer oversight duties from the current system to the new Oversight
1408 System. This team will assist with initial member and staff training and organization and will
1409 coordinate the appointment of the initial 33 Board members. The Transition Team will be
1410 selected following the 60-day period that City Council has to propose changes to City Code and
1411 the Settlement Agreement¹⁰⁵ following the receipt of the proposed Code Package from the
1412 PAC. The Transition Team will consist of a Transition Manager, up to three staff members, and
1413 up to 12 volunteers who will recuse themselves from service on the initial Board. The
1414 volunteers may be recruited from former PAC members and current or former CRC members.

1415 In order to accomplish the timeline, it is recommended that the transition team is allocated a
1416 portion of the budget that, according to City Charter, will be available to the Community Board
1417 for Police Accountability.¹⁰⁶ A sufficient budget of at least \$700,000 prior to the appointment of
1418 initial Board members is recommended and would be used for outreach, recruitment,
1419 technology, transition staff, etc. The transition staff will manage the application process for
1420 initial Board members, and the Transition Team as a whole will conduct outreach to the
1421 community. The Transition Team will review applications and submit eligible candidates to City
1422 Council; it is requested that City Council select appointees within 4 weeks of this submission.

1423 **Key Decision: The Transition from the Current Oversight System to the Community Board for**
1424 **Police Accountability**

1425 After the appointment of Board members and the hiring of staff, and once the CBPA is
1426 functional, IPR will stop accepting new complaints of alleged misconduct. IPR will work to
1427 resolve pending complaints received prior to this. The IPR Director will work with the Bureau of
1428 Human Resources to determine how to reduce the size of the organization as needed. IPR staff
1429 will have preference in hiring for employment at the Office of Community-based Police
1430 Accountability as long as the employment criteria are met.^{107,108} The CRC will work to resolve
1431 pending appeals during Phase 1 of the Post-Transition period. The PRB will continue to hear
1432 cases initiated prior to the end of the Transition Period and work to resolve them by the end of
1433 this time period. IPR will maintain the pool of PRB community members in order to allow the
1434 continued work of the PRB. The Board will also begin accepting types of cases currently
1435 addressed by Internal Affairs, but which will now be under the jurisdiction of the CBPA.

1436 **Key Decision: Transfer of Active Cases to the Community Board for Police Accountability**

¹⁰⁵ [United States v. City of Portland Settlement Agreement](#) §195.b

¹⁰⁶ [Portland City Charter §2-1004](#)

¹⁰⁷ [Police Accountability Commission Areas of Agreement on Oversight Staff](#)

¹⁰⁸ See Appendix E10 of this report.

1437 IPR may have a small number of unresolved cases by the time CBPA is ready to accept cases.
1438 The PAC recommends that all appropriate cases pending before the old Oversight System be
1439 transferred to the CBPA for resolution once it is ready to begin accepting cases. The CBPA will
1440 prioritize the resolution of these cases. The CBPA will apply its procedures to the resolution of
1441 these cases as allowed by applicable law, however if this is not a possibility then it will create a
1442 transitional hearings division to meet legal requirements for the resolution of outstanding
1443 investigations and appeals. IPR, CRC, and PRB will conclude their operations and the new
1444 Oversight System will handle all future cases under its jurisdiction.

1445

1446

17. Context and Considerations

The Police Accountability Commission is pleased to present their findings and recommendations unanimously. As such, we do not feel a need to present a “Minority Report” in the manner allowed by City Council.¹⁰⁹ However, mindful that consensus is not achieved without discussion, compromise, and grace, the Police Accountability Commission would like to highlight several challenges that we faced in our deliberations, which we have agreed may provide some context for our final recommendations.

These points are illustrative of the PAC’s efforts to weigh public interest against the needs of all affected parties and the various constraints we faced. The opportunity to close out this work by acknowledging a small subset of these challenges provides the community and decision-makers a glimpse into our thinking.

Furthermore, while the PAC was provided with independent legal counsel beginning in May 2023, the constraints of attorney-client privilege prevented us from discussing legal advice at public meetings. We recognize that this may make it harder for the public to understand the rationale for some of the PAC’s decisions.

Compensation for Volunteers

While determining the makeup of the new board, we were forced to maintain the balance of relying on community volunteers while attempting to avoid placing an undue burden on said volunteers. We know that the new board will require long hours, commitment, and reviewing potentially harmful and (re)traumatizing materials. Board members will come with lived-experience, diverse perspectives, and insight into community; and these insights deserve to be compensated so as to remove barriers to participation. We designed a system that provides compensation, reimbursements, and benefits, but were limited by laws surrounding compensation for volunteers.

Quorum Considerations

Community volunteer boards have historically had difficulty maintaining membership, which can result in an inability to meet quorum. The PAC’s areas of agreement initially included that the new Board’s quorum would be based on a majority of seated members. While current interpretations of existing state law do not seem to support this proposal, room exists for a future volunteer or legislative body to propose a remedy to this dilemma. For the time being, this challenge further highlights City Council’s obligation to be an active partner in maintaining the membership of its volunteer bodies.

Concluding Note

We have worked in a space defined by the tension between two facts. First, a movement for police accountability, for racial justice, and for community leadership on oversight of the police led to this work. This movement is a major reason that the City Council sent Ballot Measure 26-217 to voters and that the people of the City of Portland approved the creation of a community police oversight board. We

¹⁰⁹ Resolution 37548 Exhibit A “Optional Duties” #2

1489 recognize that we must work to fulfil the desires our community expressed. Movements ebb and flow
1490 over time, but the call for racial justice and the momentum from 2020 underpins this work and will
1491 continue through the implementation of the enclosed recommendations.

1492 Second, there are various systems in place which uphold the status quo, including the inequitable
1493 structures of governmental systems, and the biases we identified doing our research, which not only
1494 favor the police in the current system of cases of alleged misconduct but in the process of creating
1495 policy - including the City Code that Council will eventually adopt based on our recommendations. The
1496 barriers we identified to police accountability broadly also were barriers to improving police
1497 accountability. This tension is reflected in the work of the PAC and in our proposals and
1498 recommendations.

18. Conclusion

The Police Accountability Commission was tasked with “crafting the new police oversight system authorized by voters at the November 3, 2020, general election.” The Commission was tasked with ensuring “an inclusive, diverse community driven process [...] a lengthy, involved process where consideration is given to the complex topic of police accountability and the various impacts of a police oversight system.” Our mandate was to ensure “that the requirements of the framework within the City Charter are met.”¹¹⁰ The City Council took the time to develop this process and chose the members of the PAC to entrust this task to. We are grateful for the opportunity to work on such an important set of issues.

We believe the work of the Police Accountability Commission fulfils the tasks the City Council gave the PAC, develops a system that meets the requirements of the Charter, and crafts a new system that the voters authorized. We did so in a way that was rigorous, community-driven, and inclusive. We are proud to present this work for consideration and implementation by the City Council to create the Community Board for Police Accountability, and an Office of Community-based Police Accountability reporting to it.

We know that the PAC’s recommendations cannot solve every problem that has been perceived or identified, and our recommendations reflect that knowledge. In approaching our work, the PAC’s intent was to reflect community input and views to the degree allowable by law, and where not allowable, to note that for future leaders (including the City Council, and the Board itself) so that they can work to overcome the barriers we were required to work within. We expect that our recommendations didn’t go far enough for some yet may be perceived as too big a change for others, and want the community to know why that may be with this report.

Additionally, this Commission was tasked with addressing one key component of a broader conversation about policing in Portland. The PAC’s scope of work did not include items related to day-to-day management of the police, nor does it directly engage with issues such as civil lawsuits or criminal prosecutions. Having said that, our work is a part of this broader conversation around policing and will promote not only police accountability and community oversight, but a better public safety system for all Portlanders.

We believe that the recommendations we’ve outlined in this report will transform the police accountability system in Portland. However, this is just one aspect related to transforming the culture of policing. The system we have proposed creates mechanisms of accountability through transparency, consistent application of community-led oversight, and a process to develop potential policy changes. It is, however, extremely difficult to create an accountability system within a structure that is rooted in white supremacy, and provides barriers to accountability through status quo bias, restrictive collective bargaining, and other legal requirements. This paradox of working within a flawed system to develop a functional alternative is one this body consistently struggled with.

Finally, we aimed to reflect community input, frustrations, and desire for change into all our recommendations – but within the limitations of the political system and realities we live in and to the degree allowable by law. Where limitations existed, we aimed to make note for future leaders (including the City Council, and the Board itself) so that they can work to overcome the barriers we were required

¹¹⁰

1544 to work within. We close out with gratitude for the opportunity to work collaboratively with the City,
1545 with community, and with one another towards a more accountable police oversight system.

1546
1547 Finally, this work is situated within a broader movement for justice which creates valid, reasonable
1548 pressure for action on City government. The people of Portland voted for this measure, and in doing so
1549 demanded police accountability. Our proposals, if implemented, are part of meeting this demand. We
1550 are grateful for the support the City Council has given our work throughout this process, and look
1551 forward to continuing to collaborate, as community members, with City Council to ensure that our
1552 proposals are evaluated, discussed, and able to be implemented in a way that meets the needs of the
1553 community and fulfils the mandate given to the City by the voters it serves.

1554
1555 This work is situated within a broader movement for justice which creates valid, reasonable pressure for
1556 action on City government. The people of Portland voted for this measure, and in doing so demanded
1557 police accountability. Our proposals, if implemented, are part of meeting this demand. We are grateful
1558 for the support the City Council has given our work throughout this process, and look forward to
1559 continuing to collaborate, as community members, with City Council to ensure that our proposals are
1560 evaluated, discussed, and able to be implemented in a way that meets the needs of the community and
1561 fulfils the mandate given to the City by the voters it serves.

1562

1563 Appendices

1564 Appendix A: Code (Annotated)

Commented [PAC20]: STAFF NOTE: Will be updated following approval of Code package (standalone document) by PAC on 08-31.

1565 **Appendix B: Meetings of the PAC**

1566 By the Numbers:

- 1567 • Community Engagement Events: 23
- 1568 • Public Meetings:
- 1569 • Private Events: 9
- 1570 • Total:

December 2, 2021	(Private) Community-Building Session: Meet-and-Greet
December 9, 2021	Police Accountability Commission (Convening Meeting)
December 18, 2021	Police Accountability Commission
January 13, 2022	PAC Sub-Committee on Bylaws and Internal Processes
January 18, 2022	PAC Sub-Committee on Bylaws and Internal Processes
January 20, 2022	PAC Sub-Committee on Community Engagement Framework
January 27, 2022	Police Accountability Commission
February 3, 2022	(Private) Community-Building Session
February 12, 2022	PAC Sub-Committee on Bylaws and Internal Processes
February 24, 2022	PAC Sub-Committee on Community Engagement Framework
March 3, 2022	Police Accountability Commission
March 5, 2022	PAC Sub-Committee on Bylaws and Internal Processes
March 10, 2022	PAC Sub-Committee on Bylaws and Internal Processes
March 12, 2022	PAC Sub-Committee on Bylaws and Internal Processes
March 17, 2022	Police Accountability Commission
March 24, 2022	Police Accountability Commission
March 31, 2022	Police Accountability Commission
April 21, 2022	PAC Work Session on Community Engagement
April 26, 2022	PAC Meeting with Commissioner Hardesty
May 12, 2022	Private Community Building Session
May 16, 2022	PAC Work Session on Internal Processes
May 19, 2022	PAC Work Session on Internal Processes
May 23, 2022	PAC Work Session with Independent Police Review and the Citizen Review Committee
May 26, 2022	PAC Meeting with Mayor Wheeler
June 2, 2022	PAC Sub-Committee on Research
June 6, 2022	PAC Meeting with Commissioner Mapps
June 13, 2022	PAC Sub-Committee on Community Engagement Events
June 16, 2022	PAC Meeting with PPB Chief Lovell and Deputy Chief Frome
June 23, 2022	PAC Meeting with PPB Internal Affairs and PPB Professional Standards Division
June 27, 2022	PAC Sub-Committee on Research
June 30, 2022	PAC Meeting with PPB Police Review Board Coordinator
July 11, 2022	PAC Meeting with Mental Health Alliance and (private) briefing with City Attorney's Office

July 14, 2022	PAC Sub-Committee on Research
July 18, 2022	PAC Sub-Committee on Community Engagement Events
July 21, 2022	PAC Meeting with Commissioner Rubio and the Albina Ministerial Alliance Coalition for Justice and Police Reform
July 25, 2022	PAC Sub-Committee on Research
July 28, 2022	PAC Meeting with Commissioner Ryan and the Portland Police Association
August 1, 2022	PAC Sub-Committee on Research
August 4, 2022	PAC Work Session on Areas of Agreement
August 11, 2022	PAC Sub-Committee on Research
August 15, 2022	PAC Sub-Committee on Community Engagement Events
August 18, 2022	Police Accountability Commission Meeting
August 22, 2022	PAC Sub-Committee on Research
August 25, 2022	Police Accountability Commission Meeting
August 29, 2022	PAC Sub-Committee on Research
September 1, 2022	PAC Sub-Committee on Research
September 8, 2022	Police Accountability Commission Meeting
September 12, 2022	PAC Sub-Committee on Research
September 15, 2022	PAC Meeting with US Department of Justice
September 19, 2022	PAC Sub-Committee on Research
September 22, 2022	PAC Sub-Committee on Research
September 26, 2022	PAC Sub-Committee on Research
September 29, 2022	Police Accountability Commission Meeting
October 3, 2022	PAC Sub-Committee on Research
October 6, 2022	Police Accountability Commission Meeting
October 13, 2022	PAC Sub-Committee on Research
October 17, 2022	Police Accountability Commission Meeting
October 20, 2022	Police Accountability Commission Meeting
October 24, 2022	(Private) Community-Building Session
October 27, 2022	Police Accountability Commission with Charter 2-10 Authors (Derek Bradley and Heidi Brown)
November 3, 2022	PAC November Community Listening Session
November 10, 2022	Police Accountability Commission Meeting
November 17, 2022	PAC November Community Listening Session
November 21, 2022	PAC Sub-Committee on Officer Accountability
November 28, 2022	PAC Sub-Committee on Access to Information
December 1, 2022	PAC Sub-Committee on Structural Oversight
December 5, 2022	PAC Sub-Committee on Officer Accountability
December 8, 2022	Police Accountability Commission Meeting
December 10, 2022	PAC Work Session on Officer Accountability

December 12, 2022	PAC Sub-Committee on Access to Information with Ross Caldwell and Eric Berry, Independent Police Review
December 15, 2022	PAC Sub-Committee on Structural Oversight with Commissioner Jo Ann Hardesty
December 19, 2022	PAC Sub-Committee on Officer Accountability with Ross Caldwell and Eric Berry, Independent Police Review
December 29, 2022	PAC Sub-Committee on Access to Information
January 5, 2023	PAC Sub-Committee on Access to Information
January 9, 2023	PAC Sub-Committee on Officer Accountability
January 10, 2023	PAC January Community Listening Session + Q&A
January 12, 2023	PAC Sub-Committee on Structural Oversight
January 19, 2023	Police Accountability Commission Meeting
January 21, 2023	PAC Sub-Committee on Structural Oversight
January 26, 2023	Police Accountability Commission Meeting
January 30, 2023	PAC Sub-Committee on Officer Accountability
January 31, 2023	PAC January Community Listening Session + Q&A
February 2, 2023	PAC Sub-Committee on Officer Accountability
February 6, 2023	Police Accountability Commission Meeting
February 9, 2023	Police Accountability Commission Meeting
February 13, 2023	Police Accountability Commission Meeting
February 16, 2023	Community Engagement Event with the PAC Hosted by Oregon Justice Resource Center & Don't Shoot Portland
February 27, 2023	PAC Sub-Committee on Reporting and Transparency
March 2, 2023	PAC Joint Sub-Committee Meeting – Sub-Committees on Board Membership and Oversight Staff ³⁴
March 6, 2023	PAC Sub-Committee on Reporting and Transparency
March 9, 2023	PAC Sub-Committee on Board Membership
March 13, 2023	PAC Sub-Committee on Oversight Staff
March 14, 2023	PAC March Community Forum
March 16, 2023	PAC Sub-Committee on Reporting and Transparency
March 20, 2023	PAC Private Community-Building Session
March 22, 2023	PAC March Community Forum
March 23, 2023	PAC Sub-Committee on Reporting and Transparency
March 27, 2023	PAC Sub-Committee on Board Membership
March 30, 2023	Police Accountability Commission Meeting

Commented [PAC 08-2821]: STAFF NOTE: To add through August 31.

1571 Appendix C1: Community Input Tracker

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Appendix C2: Discussion Group Report

Commented [PAC22]: This will be updated with the final report, formatting will be adjusted.



**Police
Accountability
Commission**

Overall Discussion Group Sessions for The New Oversight System

REPORT

August 2023

REPORT BY



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INTRODUCTION

In 2020, Portlanders overwhelmingly passed a ballot measure that created the Police Accountability Commission (PAC). The Police Accountability Commission is a group of 20 community volunteers working since December of 2021 to create a new police oversight system for the City of Portland that will create transparency, promote justice, and ensure accountability from Portland's police force. The commission has drafted documents detailing the new system, which will be presented to the Portland City Council in September 2023.

To ensure that the proposed changes will benefit all Portland community members, the Police Accountability Commission is collaborating with Lara Media Services

(LMS) and Spears & Spears to expand community outreach and gather feedback from over-policed communities regarding the proposed changes to the policing system. Effective engagement requires a community-centered approach that considers the unique needs, concerns, and values of the communities served. PAC demonstrates a genuine commitment to understanding the communities experiences and perspectives by gathering their input. This undertaking builds trust between the community and this new commission, fostering a sense of legitimacy and cooperation.

Communities that experience over-policing often develop strained relationships with law enforcement and other government agencies that work with them.

Amplifying these voices helps to bring attention to the disparities and inequities in our criminal justice system and fosters a more inclusive and equitable society.

By listening to over-policed communities, PAC will better understand their priorities, perspectives, and desired outcomes. This information will then be used to influence the PAC documents that the commission has drafted.



LMS is a certified MBE, WBE, DBE, ESB firm (Certification #7923) and B-Corp that places people at the center of their approach to create authentic engagement tactics and strategies that are tailored to the needs of those who stand to benefit from them the most. This principle is based on the idea that those closest to the problem are often closest to the solutions. LMS is proud to be part of this critical project and to support the Police Accountability Commission in its efforts to create an equitable system that promotes accountability within the city's police department.



METHODOLOGY

To gather honest and constructive community feedback on the systemic changes needed to build a safer and more just community for Portland's citizens, The Police Accountability Commission (PAC)* hired Spears & Spears and LMS to identify communities that have been historically underrepresented in the City of Portland's Police department or who are vulnerable to police misconduct or discrimination. Communities and affinity groups were identified and invited to participate. Due to their history of working with over-policed communities, LMS and Spears & Spears facilitated all Police Accountability discussion groups. LMS coordinated logistics and planned the discussion prompts to encourage engagement from all attendees. All participants completed a demographic survey. Twenty participants from the houseless community were invited by Bybee Lakes Hope Center. All discussion groups were virtual, with the exception of the discussion of participants for the houseless community. In total, 168 individuals were invited to participate, and 124 attended.



Facilitators provided a safe space for participants to share their thoughts and ideas about the Police and Portland Police Bureau's (PPB's) current oversight systems.

Spears & Spears facilitated five virtual discussion groups:

- Small Businesses
- Equity Practitioners
- Neighborhood Associations and CBOs
- People between 18 and 25 years old
- Anyone Who has Witnessed or Experienced Police Misconduct and Filed a Complaint

LMS facilitated five virtual and one in-person discussion groups:

- Spanish Speakers
- People Living with Disabilities
- People Living with Mental Health Illnesses
- Community Members that have Dealt with the Police in the Last Year
- Houseless Communities (in-person)
- Community Members who have Witnessed or Experienced Police Misconduct but Chose not to File a Complaint

LMS also facilitated one in-person discussion group for houseless communities, offering childcare, refreshments, and paper demographic surveys to participants to accommodate their needs.

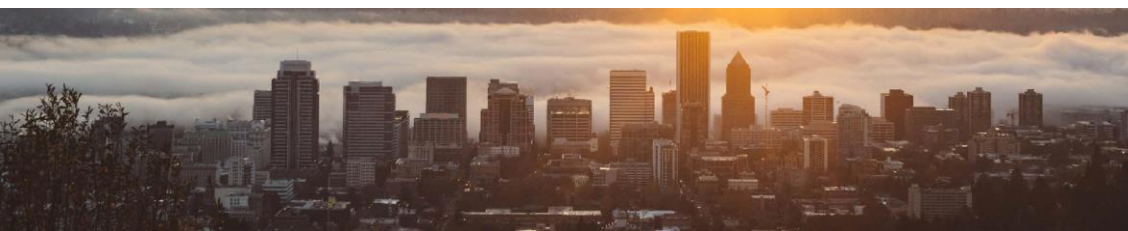
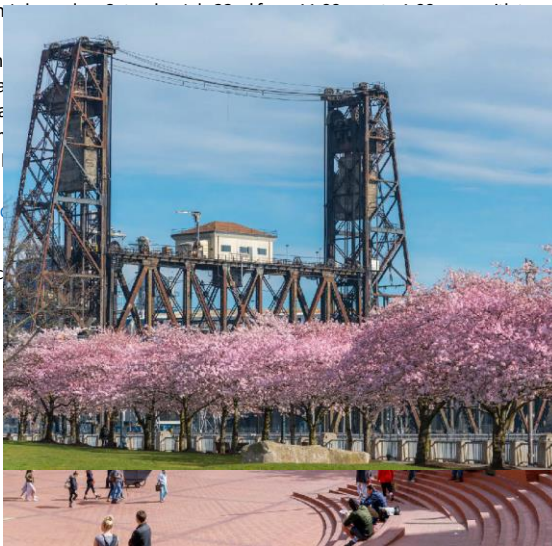


Two-hour discussion groups were held on June 27th, every Wednesday in discussion groups each on July 11th, 12th and 19th.

All participants were offered accommodations for the discussion environment for all participants; providing accessible accommodations was the conversation. For these discussions, LMS made sure to have visual aids contacted in advance, asked for individual needs, and encouraged to contribute. All participants were treated with respect and dignity, ensuring they felt compensated for participating.

The following information highlights the demographic data from all Police recommendations for the new system being implemented by PAC.

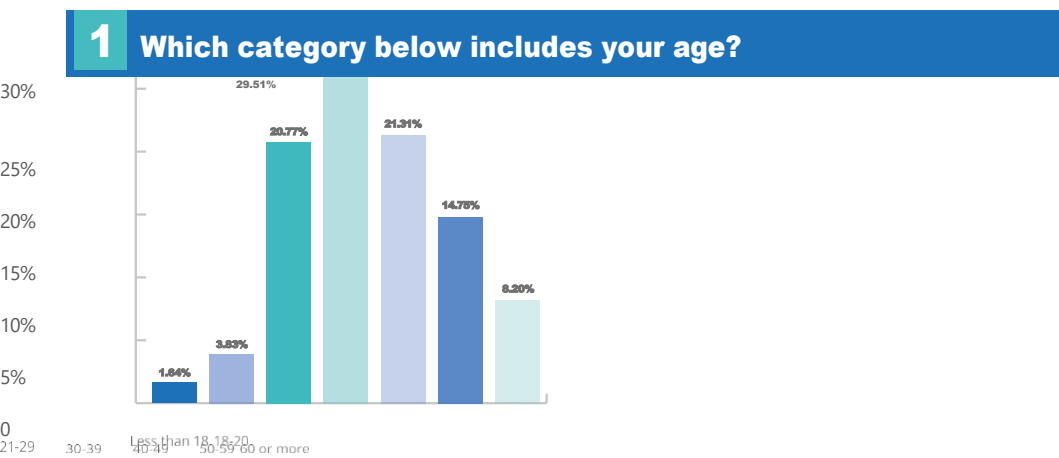
*The Police Accountability Commission is a group of 20 City Council-appointed community disciplinary, and oversight system for Portland police.



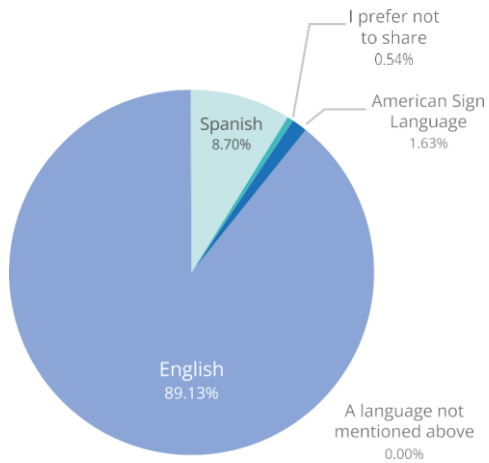


DEMOGRAPHICS

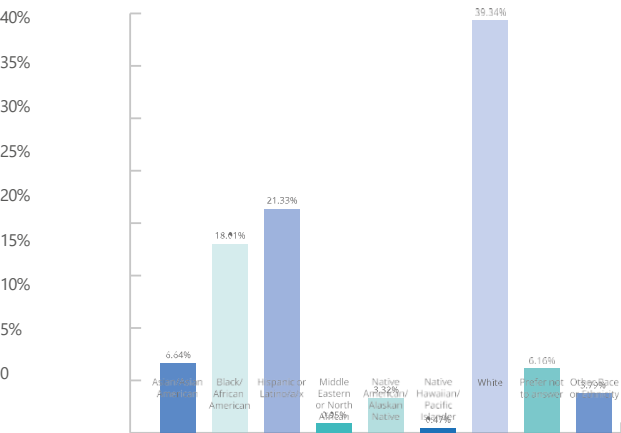
Below is the demographic survey, which includes 186 responses; out of those, 124 participated in the discussion groups.



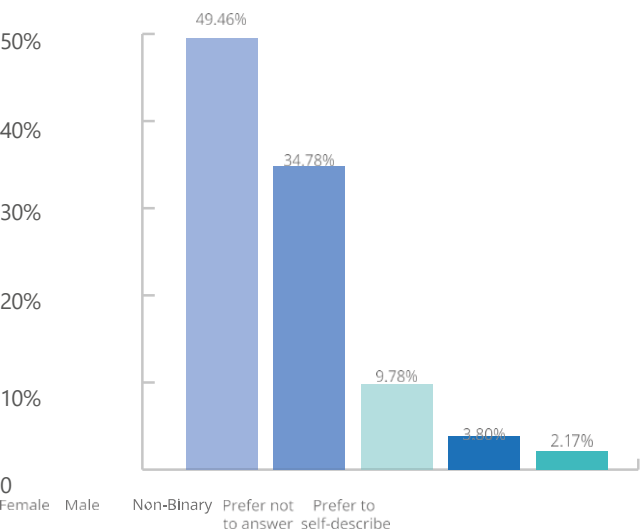
2 What is your preferred language?



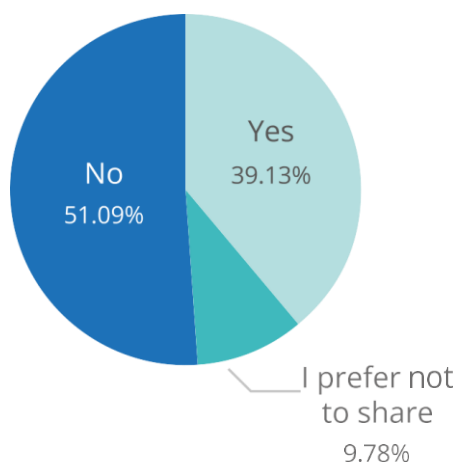
3 Which of the following racial and ethnic backgrounds best describes you? (Select all that apply)



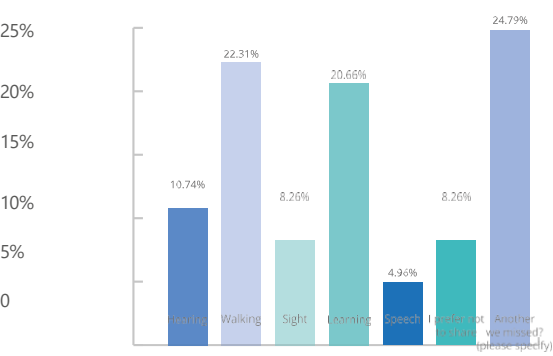
4 What best describes your gender?



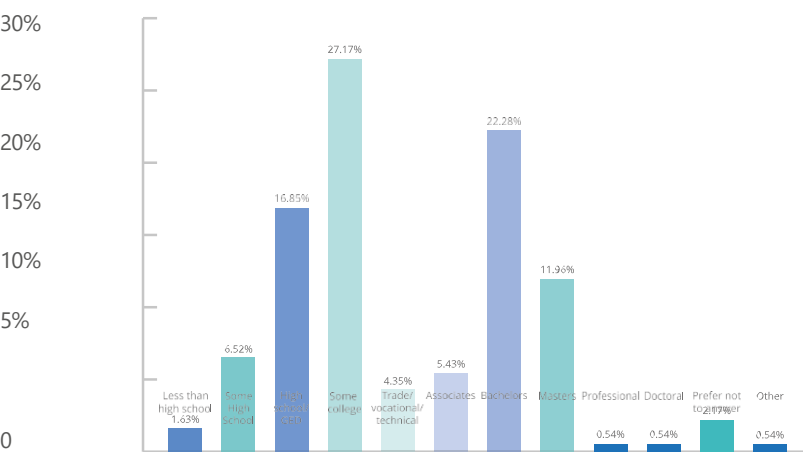
5 Does a disability impact you?



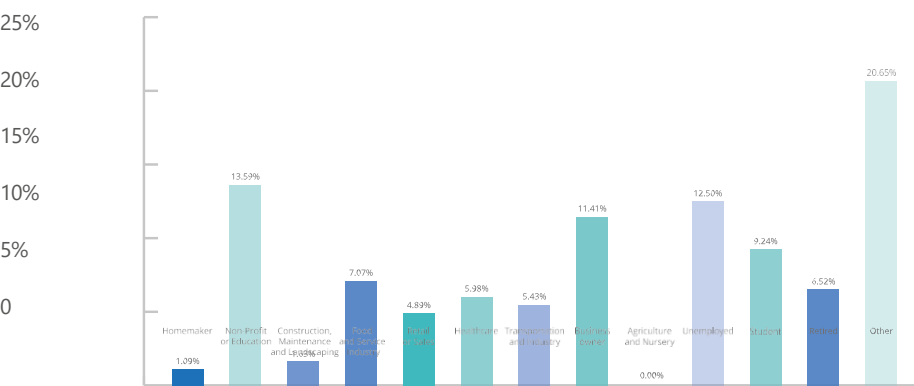
5.2 How do disabilities impact you? (Select all that apply)



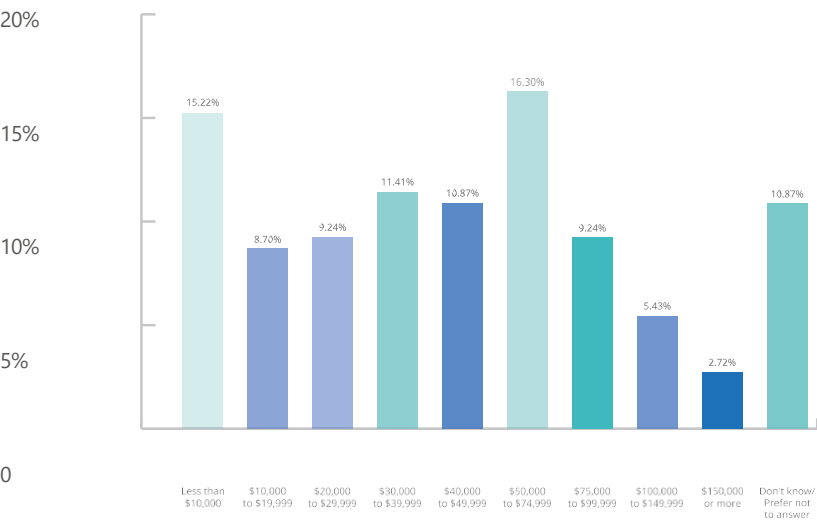
6 What is your highest level of education?



7 What is your occupation?



8 What is your household's annual income before taxes?



RECOMMENDATIONS

This section lists the recommendations from all discussion groups summed by themes.

Building Trust:

Highlighted by the following Discussion Groups: Spanish speakers, Houseless Communities, and Community Members who have Witnessed or Experienced Police Misconduct but chose not to File a Complaint.

- Build trust between communities and police officers by creating opportunities for constant engagement through in-person events and community feedback sessions.
- Increase police visibility and engagement within communities.
- Establish policies that encourage community-based policing over reactive policing.
- Use social media and advertisement campaigns to educate and uplift real stories about community members' interactions with the police and the new system.



Increasing Training for Officers to Minimize Forced and Violent Interactions:

Highlighted by the following Discussion Groups: Spanish speakers, Houseless Communities, Communities Living with Disabilities, Neighborhood Associations and Community Board Organization members, and Community Members who have Witnessed or Experienced Police Misconduct but chose not to File a Complaint.

- Mandate training for officers to minimize use of force and violent interactions with diverse and vulnerable communities including comprehensive equity training, implicit bias training, and culturally responsive training with focus on how to compassionately engage with people suffering from mental health illnesses.
- Hire mental health professionals to aid police officers in responding to individuals suffering from mental health crises.
- Ask for the use of a tracking system that uses simulation calls to evaluate officers' reaction times and responses to various scenarios to monitor officers' performance and observe how they handle incidents. Use a role play-based, hands-on approach with a focus on communication, de-escalation, and empathy.
- Create best practices for disciplinary processes for officers and for transparency, to inform civilians on potential outcomes of misconduct cases.
- Incorporate training on how to create more dialogue in difficult situations to de-escalate them with no or minimal violence.
- Implement tracking systems that monitor officer performance and incident handling, — support officers who handle interactions appropriately through positive reinforcement and other benefits.



Expanding Outreach:

Highlighted by the following Discussion Groups: Spanish speakers, Community Members who have Witnessed or Experienced Police Misconduct but Chose not to File a Complaint, People Living with Mental Illness, Small Businesses, and Community Members who have Dealt with the Police in the Last Year.

- Utilize diverse communication methods to create further outreach to Spanish-speaking community members and communities of color about how to submit police complaints.
 - Create a Q&A for the community that explains how the new system would work to benefit the community.
 - Use a mix of communication methods to ensure the accessibility of the new system, focusing on those that had been over-policed.
- Communication methods should include videos, posters, newsletters, and social media, and media channels and content with accommodations for people living with disabilities and mental illnesses.

Transparency:

Highlighted by the following Discussion Groups: Neighborhood Associations and Community Board Organization members, People between 18 and 25 years old, Community Members who have Dealt with the Police in the Last Year, and Equity Practitioners.

- Establish a “Bureau Advisory Committee” composed of citizens to oversee the new system budget. The organization’s budget and funding should be transparent through public reports or other accessible resources to all Portland community members.
- Ensure that all investigations are transparent about the charges being made against officers, the steps being taken to investigate the misconduct, and the outcomes of the issue.
- Track and record complaints and misconduct to develop a database to analyze trends in officers’ behavior.
- Create an accessible public database where investigation results and misconduct charges can be searched by officer’s badge number and name.
- Create a public database of accessible reports on past and recent misconduct charges by officer’s badge number and name can also increase transparency and promote accountability.



Accessibility in the Complaint Navigation Process:

Highlighted by the following Discussion Groups: Spanish speakers, Communities Living with Disabilities, People Living with Mental Illness, Small Businesses, Houseless Communities, Neighborhood Associations and Community Board Organization members, Community Members that have Dealt with the Police in the Last Year, Community Members who have Witnessed or Experienced Police Misconduct but Chose not to File a Complaint.

- Create a system that allows civilians to anonymously make a complaint and upload evidence of misconduct without going through police systems.
 - Make sure to investigate all complaints thoroughly.
 - Make a safe system for complainants that protects them from retaliation from officers.
 - Keep complainants informed about the status of their complaint and create a dashboard to supply investigation data to the public.
- Establish a system that alerts civilians when their evidence has been seen and the investigation process has started.
- Create a new system that is inclusive and accessible with cultural and linguistic resources including accommodations for people who don't speak English and come from diverse backgrounds.
 - Create processes that offer accommodations and access for people with mental illnesses and people with disabilities.
 - Have various locations for reporting complaints and several communication methods through which complainants can submit evidence such as videos, phone calls, complaint forms.



Creating and Maintaining a Diverse and Inclusive Board:

Highlighted by the following Discussion Groups: Equity Practitioners, People Living with Mental Illness, Neighborhood Associations and Community Board Organization members, Small Businesses, People who are between 18 and 25 years old, Houseless Communities, Community Members who have Dealt with the Police in the Last Year.

- Consider the balance of expertise, beliefs, personal views, bias, and cultural experience to ensure diversity and equity on the board.
- Include mental and public health workers in the new organization to ensure the system is equitable and empathetic for individuals with mental illness.
- Clarify how to apply to be a part of the board and establish qualifications and requirements for serving in the new system.
- Clearly define the role of the Director.
- Establish a screening committee for board members to ensure that those with harmful or extremist ideologies against over-police communities are not elected to the board.
- Offer training to the organization's board members about dealing with biases and power dynamics.
- Establish a comprehensive process to ensure that all decisions the future board makes are fair, just, and legitimate.
- Compensate the board volunteers, especially those with lower financial means to serve, and structure it on a sliding scale. It is suggested that transportation and parking reimbursements be added, among other things that facilitate board members participation. Also include mental health support and resources for members of the board and volunteers.



Investigation and Discipline within the Portland Police Bureau:

Highlighted by the following Discussion Groups: Equity Practitioners, Houseless Communities, Community Members who have Dealt with the Police in the Last Year, Community Members who have Witnessed or Experienced Police Misconduct and Filed a Complaint, Community Members who have Witnessed or Experienced Police Misconduct but Chose not to File a Complaint, Spanish speakers, Communities Living with Disabilities and People Living with Mental Illness.

- Ensure the new accountability system's process can withstand potential legal challenges from the police union.
- Create stricter standards and expectations for officers' behavior and clear repercussions for misconduct.
- Provide oversight after an accountability determination is made, including information on who oversees discipline and potential penalties for non-compliance.
- Conduct thorough investigations into officers' backgrounds before hiring them and during investigations.
- Implement strict penalties for officer misconduct with people living with disabilities and for harming vulnerable communities, such as seniors or minors.
- Ensure that all misconduct is publicly acknowledged by the officer and the PPB.
- Implement repercussions for officers who fail to report misconduct from their colleagues. ● Provide resources such as therapy, support groups, and personal counseling to police.



Creating Spaces & Reparations:

Highlighted by the following Discussion Groups: Equity Practitioners, Houseless Communities, Community Members who have Dealt with the Police in the Last Year, Community Members who have Witnessed or Experienced Police Misconduct but Chose not to File a Complaint, Spanish speakers, People Living with Mental Illness and Communities Living with Disabilities.

- Ensure that the new oversight system, including the board, continues learning from and listening to over-policed communities, using diverse insights and perspectives to create a more just and inclusive organization that meets the community's needs.
- Create a fund to provide resources for those who have experienced police trauma, including monetary reparations for those affected by police brutality and misconduct.

Throughout the discussion groups, participants had questions regarding the new police oversight system. Their questions were gathered in a document so PAC can refer to and answer them; see Appendix 1.



CONCLUSION

This study provided valuable insights into Portland's experiences, perspectives, and expectations regarding law enforcement and police accountability. Many participants have historical experiences of systemic discrimination, racial profiling, and police brutality. This history contributes to a deep-seated distrust of law enforcement agencies. These historical experiences continue to shape perceptions of police accountability, leading to participants expressing skepticism about genuine efforts to address misconduct.

Throughout the study, participants highlighted the need for robust, community-led and independent accountability mechanisms for law enforcement agencies, emphasizing the importance of civilian oversight boards, body cameras, and transparency in investigations of police misconduct.

Discussions also demonstrated the value of cultural sensitivity and training for police officers, as participants recounted instances where bias and a lack of cultural understanding have led to discriminatory

treatment and harm done to them, indicating a need for ongoing education to reduce these incidents.

Numerous participants stressed the need to allocate funds towards social services, mental health resources, and community development initiatives to support the board. They also suggested creating resources specifically designed to assist individuals who speak different languages in navigating the complaint process and implementing follow-up procedures for cases to help people stay informed about the status of their complaints. Additionally, others expressed the importance of repairing harm caused by crime rather than solely punitive measures, expressing interest in seeing restorative justice approaches among people whom the lack of police accountability has harmed.

Finally, several participants highlighted the need for budget transparency, a diverse board that reflects the communities of the city of Portland, and increased community policing efforts where officers are actively engaged with the communities they serve. These discussions could highlight the potential for building trust through positive interactions, community partnerships, and programs that address the root causes of distrust among community members. Even though they might be skeptical about the outcome, participants believe that the changes made by the Police Accountability Commission can profoundly impact the City of Portland's police accountability systems. They are grateful to have a chance to share their stories and opinions, and are hopeful that these new processes will create the change they need to build safer communities for themselves and their families.



APPENDIX

Questions heard from participants from all Discussion Groups

The following lists the questions that participants from various communities asked during the Discussion Group meetings.

Spanish-speaking communities:

- Was the commission created because of the lack of accountability there is in the current system?
- Will the system be managed by a third party company? That could implement justice under the misconduct that police commit.
- Will police officers be disciplined in a way that the officer recognizes their misconduct?
- When making a complaint, what are the processes that will guarantee that is going through and not just being ignored?
- What can I do when I'm in the process of making a report but police officers do not take me seriously because I am Latino?
- I would like to know what is considered a valid thing to report? To whom can I report it to?
- When finishing training, do they not have any kind of obligation to continue for more training?

What other kinds of training are required?

- How are the community members selected to join the commission?



Small Business owners:

- Who is the authority over the Police Accountability Commission? Who holds the Police Accountability Commission accountable?
 - How will the performance of the Police Accountability Commission be measured?
 - How will the intake process be made accessible for people with different levels of ability? Will there be people to assist those that are deaf or hard of hearing?
 - How will the intake process be made accessible for those that do not have phones or access to the internet?
 - How will the intake process be made accessible to the immigrant community and those who speak languages other than English?
 - Will those with undocumented status be protected from retaliation from making complaints against the police? Will other complainants be protected from retaliation from making a complaint against the police? How will this be a safe space to make complaints?
 - What is the life cycle of a complaint from start to finish? How long would a complaint take to resolve from intake to disposition?
 - How will the public be kept informed about the status of complaints?
 - How will the Navigators be diverse and well-equipped to assist a multi-cultural community of varied socio-economic standing? How long will Navigators be trained?
 - Will the Board reflect the diversity of the communities most impacted by police misconduct within Portland, and not just the overall demographic of Portland?
 - Will the Board include members that identify as LGBTQIA+?
 - How many Board members will be from the Small Business community?
- Is it possible to convert the Board positions from volunteer to paid to increase the pool of qualified applicants?
- When will the process for receiving complaints start? What is the timeline?
 - How will the public be made aware of the Police Accountability Commission and of what changes are taking place?



Equity Practitioners:

- What are the racial equity goals for inclusion? Will you over represent those who have been impacted the hardest?
- What is the total budget?
- What is the timing of the Five Steps when an investigation is still ongoing? ● How informal is the process?
- What is being or will be done to foster relationships and trust between the PAC and the public? ● What is the role of the Director?
- How will the PAC overcome qualified immunity?

People who are between 18 and 25 years old:

- How will the volunteers be recruited?
- Is the board supervised? What person or entity ensures the board is conducting itself appropriately?
- What is the process to apply to serve on the board?
- Are board members compensated for transportation and parking?
- How far back can complaints go? Can someone make a new complaint even if they've made an old complaint under the previous system?
- Does the new system apply to public transport police? Does it apply to university police? ● Do PAC commissioners have to live in Portland full time?



People Living with Disabilities:

- Will the investigation be public?
- How timely will it be, will there be adequate staffing, what consequences would there be if too much time has passed, who would oversee the investigation?
- Has the appeals process been figured out?
- Hearing. Since the goal is transparency, how can we conduct the program without inflicting trauma like the current system does? The program must create trust in the community to be successful
- I wonder if some sort of plan to review the new system to see if in practice it's working? ie: new system will be reviewed in X amount of time.
- Will there be audits to keep transparency in the new systems budget?
- And also for various cases if there's compensation and as like a civil suit. And does some of that fall back into this group?
- Is there a system to appoint alternates to the 33 member committee/council/etc?? Will it be able to function with only 32 members?



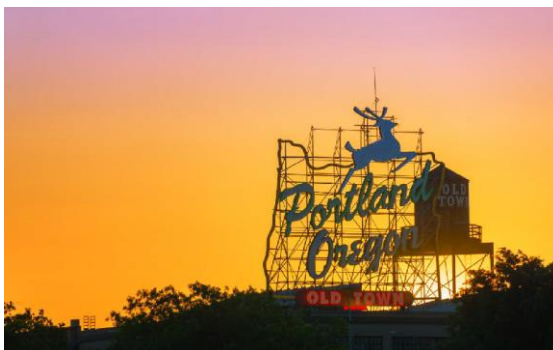
People Living with Mental Illness:

- What happened if not enough people applied to volunteer?
 - Is this system just the PAC? Where is power consolidated in the new system? ● What's the power structure within the committee?
 - Will the new system actively listen to people's complaints? And what are the repercussions if they don't?
 - Who would be doing the intakes? Would this be a PAC thing? Or do you think it would be folks calling the police station?
 - What, if any, are the appeals?
 - What is the role and authority of the new organization over external policing forces working in Portland, Oregon? Will they also be subject to these same rules? What happens if something happens with them?
 - Is there anything that requires an officer to give you their card with these kinds of interactions or even calls they go on?
 - Has the police union agreed to this program and the different disciplines that can happen?
 - Will there be a union rep on the new board?
 - Can we suggest that a few slots on the board be filled mandatorily by members of the Community Policing group?
 - How many FTE will be devoted to the new system?
 - How are the volunteers selected? Who chooses the volunteers? ● Can the community nominate people to the committee?
- If a decision gets appealed will officers get paid leave?
- What happens if not enough people volunteer/apply?
 - What protects citizens from police officers if the officer is not found to be guilty (or even if they are) and the officer decides to retaliate?
 - How does the committee interact with the structure of city government?



Neighborhood Association & CBOs:

- Does the fact that the hearings are open mean that the investigations will also be open to the public?
- How will board members be selected?
- How do we ensure board members are not being targeted by police for their work?
- What is the timeline for complaints and appeals?
- Can the public see these written proposals anywhere?
- Is there a way to remove board members for cause if they misbehave?
- How are complaints vetted to prevent false or frivolous complaints? Are there consequences for making false or frivolous complaints?



People who have dealt with the police in the last year:

- How much power/authority will the new organization actually have?
- How is this new dedicated budget going to be dedicated? Is it a percentage? Fixed amount? (hour 17 min in)
- Will they be compelled to spend it all? That is a lot of money? ● Is there going to be a budget oversight committee?
- Has this been based on other programs (ex: around the country or in Europe) or was this put together? Where did this idea come from? And where did their tools come from to put this system together?
- Is there a stipend for volunteers?
- How much of this has been specced out? ● Is there a preliminary budget?
- Where is the money going? And what are they spending?
- Is there a difference between the initial budget and the ongoing budget? I would assume that the initial budget would be a lot higher.
- Will everything about the budget and oversight system be public information? ● When is the target date to have this operational?
- Is there a way to get the presentation to review it more?
- Is there a way to provide feedback outside of this meeting?



Houseless Communities:

- Once a complaint is filed to an officer, what happens to the officer while this is being walked through?
- One participant asked if there's a DA accountability commission because they're allowed to run without supervision.
- One participant asked if the Department of Corrections will also be held accountable with the same system standards
- When the board is challenged with problems, who's going to support or question the board? ● Who watches the watchmen?
- "Who runs IA?"
- Will the Department of Corrections also be subject to this accountability? Or just police? ● What is the dollar benefit to the taxpayers and the dollar benefit to the board?
- What is the long-term goal of the PAC?
- A participant asked if it's only going to stay with police budget money or if there will be any outside money from grants or something else that could influence this new system?

Anyone who has witnessed/experienced police misconduct and filed a complaint:

- If the PPB does not follow through with the recommended discipline, what are the penalties? ● How is the board held accountable?
 - How can I serve on the board?
 - How can we ensure diversity on the board?
 - Will the board members be able to afford to serve based on the compensation?
 - Can complaints be made anonymously given the fact the board can compel testimony?
 - Will there be a method of tracking complaints such as a published database where the public can follow complaints and outcomes?
- Can multiple complaints against one officer be aggregated?



Anyone who has witnessed/experienced police misconduct but chose not to file a complaint:

- Why 33 people?
- How long does the process take for the five steps? How long does an appeal happen? Does the police officer get put on administrative leave if they were dismissed/fired by the 33 members but appeal?
- The 33 members? Are they a mix of cultures or just a specific one? ● How can the community know about this new system?
- If an officer is found guilty of misconduct, are they under threat of jail time and fines or just losing their job?
- Are there any incentives for good cops who are never complained about?
- When they present these documents] How do we know the council will even accept the changes and not try to make absurd changes?
- Will there be representatives for racists who want to protect themselves?" How are conservatives represented, and who appoints this? How was this discussed, and why are the volunteers representing this bureau?
- How will we earn the people's trust even to use this machine (PAC)? ● Is the system big enough?
- How are the members selected?
- What are the chances of the city council hiring a mole?





Police Accountability Commission

Overall Discussion Group Sessions for The New Oversight System
REPORT

Appendix C3: Staff Research Memo on Mental Health Support for Jurors

Research Memo Re: Mental Health Support for Jurors

- Federal judges are able to extend jury service in order to allow jurors to utilize the federal Employee Assistance Program:¹
 - In 2008 Sherry Richter, the District of Idaho's jury administrator, contacted EAP for juror counseling after a kidnapping and murder trial in which jurors had to view evidence that was "extremely difficult for them." This led to EAP counseling services being extended to petit jurors serving in federal court.
 - In 2015 Judge George A. O'Toole, Jr. extended jury duty after the Boston Marathon Bombing trial of Dzhokhar Tsarnaev.
- 20th Judicial District of Colorado offers to pay for up to 3 counseling sessions after jurors have been dismissed from a trial due to vicarious trauma.²
- Texas Criminal Code allows courts to approve a program in which they may offer up to 10 hours of counseling to someone who serves as a juror in a grand jury investigation or criminal trial involving graphic evidence.³

- British Columbia, Canada has a Juror Support Program which offers free counseling services to any juror after they complete their service.⁴
- In 2002 Ohio Supreme Court Chief Justice Thomas Moyer appointed a task force to study and recommend reform to the jury system. The task force was made up of 25 members and included judges, attorneys, court administrators, clerks, and former jurors. In 2004, in a final report, the task force recommended that “counseling services be made available to jurors after especially stressful trials,” and argued that it would help them handle stress.⁵
- Massachusetts has a statewide juror counseling service available to all jurors. They may receive up to three free confidential meetings with counselors.^{6,7}

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7. <https://learn.mindwise.org/ma-jurors>

Appendix C4: Staff Research Memo on Board Member Compensation

City / Board	Compensation	Amount Per Year
Louisville, KY ¹¹¹	\$50 per month when member attends meetings.	Assume 1 meeting per month: ¹¹² \$600 per year.
Civilian Review and Accountability Board	\$100 per full day of training	\$100 for training,¹¹³ assuming one full day is 8 hours and 5 days are required, the total would be \$500 in 1st year and up to \$150 for following years assuming they continue doing ride-alongs
Baltimore, MD	ACC: Meet once per week, \$1,500 per week	ACC: \$36,000 per year¹¹⁴
Police Accountability Board & Administrative Charging Committee Anne Arundal County, MD	PAB: \$2,500 distributed twice annually or \$6,250 for the member who is also on ACC ACC: \$5,000 distributed twice annually	PAB: \$5,000 ACC: \$10,000 Members of both: \$12,500
Police Accountability Board & Administrative Charging Committee Philadelphia, PA	\$125 per meeting or hearing each board member attends	\$125 per meeting, ¹¹⁵ 12 meetings per year = \$1,500 per year Including monthly town halls: \$3,000 per year
Citizen Police Oversight Commission Cincinnati OH	Members: \$100 per meeting	Members: \$1,200 per year
Citizen Complaint Authority	Chairperson: \$125 per meeting	Chairperson \$1,500 per year¹¹⁶
Denver, CO		Up to \$1,200 per year
Citizen Oversight Board		

¹¹¹ [City of Louisville Civilian Review and Accountability Board and Office of the Inspector General Establishing Ordinance §36.71](#)

¹¹² [Bylaws of The Civilian Review and Accountability Board for Louisville/Jefferson County Metro Government, Art V, §5.1](#)

¹¹³ [City of Louisville Civilian Review and Accountability Board and Office of the Inspector General Establishing Ordinance §36.76](#)

¹¹⁴ Information from a meeting with Mariel Shutinya, Esq., Chief of the Police Accountability Division in the Office of Equity and Civil Rights for the City of Baltimore, Maryland on 05/15/2023.

¹¹⁵ [Philadelphia City Code §20-304](#)

¹¹⁶ [Cincinnati, Ohio Ordinance 5a Art XXVIII §2-A.6](#)

Appendix D1: Charter 2-10

Section 2-1001 City of Portland Community Police Oversight Board.

A Board is hereby authorized and shall be established upon compliance with any legal obligations the City may have under the Public Employees Collective Bargaining Act, other state and federal laws, and upon adoption by City Council of an implementing Ordinance. The mission of the City of Portland Community Police Oversight Board (Board) is to independently investigate Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns. The final name of this Board will be established by City Code.

Section 2-1002 Nature of the Board.

Board members shall be appointed by approval of Council to a term of years established in City Code. Members may not be removed from the Board prior to the completion of their term except for cause. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term. The Board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.

Section 2-1003 Restrictions on Board Membership.

People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the Board. People who were formerly employed by a law enforcement agency are not eligible for service on the Board.

Section 2-1004 Budget of the Board.

Funding for the Board shall be proportional to be no less than 5 percent of the Police Bureau's Annual Operational Budget.

Section 2-1005 Professional Staff of the Board.

The Board shall hire a Director to manage the professional administrative staff and professional investigators, and to make operational and administrative decisions. The Director is a "Bureau Director" for purposes of Charter section 4-301 and shall be appointed by, and serve at the will and pleasure of, the Board. Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director as classified employees.

Section 2-1006 Independent Authority.

The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment. The physical office of the Board shall be located outside of a Portland Police Bureau facility.

Section 2-1007 Powers of the Board.

- (a) The Board shall have the power to the full extent allowed by law to receive and investigate complaints including the power to subpoena and compel documents, and to issue disciplinary action up to and including termination for all sworn members and the supervisors thereof within the Portland Police Bureau.

(b) The Board shall have the authority to make policy and directive recommendations to the Portland Police Bureau and City Council. The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the Board. If the Portland Police Bureau rejects a policy or directive recommendation, then at the request of the Board, City Council must consider and vote to accept or reject the policy recommendations received from the Board. Council's decision will be binding on the Portland Police Bureau.

(c) The Board shall have the authority and ability to gather and compel all evidence, to access all police records to the extent allowed by federal and state law, and the ability to compel statements from witnesses including officers. The Board shall make provisions for regular and open meetings, public transparency, and reporting on the Board's activities. One of the goals of the Board will be to remove barriers for Board members to fully participate in the work of the Board.

(d) The Board shall have the power to compel sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to completely and truthfully answer all questions. Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.

Section 2-1008 Duties of the Board.

The board shall have the authority to investigate certain Police actions, including but not limited to;

(a) All deaths in custody and uses of deadly force.

(b) All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.

(c) The Board may investigate other complaints or incidents of misconduct as they see fit or as mandated by City Code.

Section 2-1009 Severability.

For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

[Appendix D2: Final Checklist \(Resolutions 37527 and 37548\)](#)
[Appendix D3: Values and Goals](#)
[Appendix D4: Agenda and Scope](#)

Appendix E1: PAC Areas of Agreement on Barriers to Police Accountability, and Best Practices, in the Current System in Portland

City of Portland

Police Accountability Commission

Areas of Agreement on Barriers to Police Accountability, and Best Practices, in the Current System in Portland

The Police Accountability Commission agrees that the following items are **barriers to police accountability** in Portland's current system. The Police Accountability Commission will, in future phases of its work, develop a proposal for a system that overcomes these barriers. During the Fact-Finding Phase, the Police Accountability Commission heard from a number of individuals with key roles in the city's oversight and public safety systems:

1. Commissioner Jo Ann Hardesty (April 26)
2. Independent Police Review Director Ross Caldwell and Deputy Director Dana Walton-Macaulay (May 23)
3. Citizen Review Committee Chair Candace Avalos and Vice Chair Yume Delegato (May 23)
4. Mayor Ted Wheeler (May 26)
5. Commissioner Mingus Mapps (June 6)
6. Portland Police Bureau Chief Charles Lovell and Deputy Chief Mike Frome (June 16)
7. PPB Internal Affairs Acting Captain Greg Pashley and Professional Standards Division Commander Jeff Bell (June 23)
8. PPB Police Review Board Coordinator Christopher Paillé (June 30)
9. Mental Health Alliance spokespersons K.C. Lewis and Amanda Marshall (July 11)
10. Commissioner Carmen Rubio (July 21)
11. Albina Ministerial Alliance Coalition Chair Rev. Leroy Haynes and Steering Committee member Rev. Mark Knutson (July 21)
12. Portland Police Association President Aaron Schmautz (July 28)
13. Commissioner Dan Ryan (July 28)

This was required by City Council Resolutions 37527 and 37548. The following document summarizes the commission's reflections on what it heard, the conclusions it drew, and also includes members' own observations and ideas.

Lack of Transparency

The system lacks transparency for complainants. There is little information available for complainants to understand how the system works, and to know where their complaint status is in the process. Further, full and necessary transparency for community accountability does not exist.

1. Community members have difficulty understanding the administrative complaint process and receive little or no support from the current system.

Intake: Complainants may not know when, where, or how to file a complaint. Prior to filing the complaint, complainants do not know how many times they will have to tell their story. Complainants are not offered access to an advocate during the intake process.

Investigation: Investigations do not follow transparent timelines, so it is impossible for complainants to know how this process will affect their schedules and day-to-day lives. Complainants, including families of victims filing on behalf of their loved ones, are not given regular updates about the status of their investigation; they have to go online to find such updates. Additionally, impacted communities are not given information about the status of an investigation which affected a member of their community directly and the community indirectly. Community members are not offered an advocate during the investigative process. Complainants have difficulty getting real answers from knowledgeable staff about the status of their complaint investigation, or what they need to do next. When a complainant calls to get information about their case, they often must “start from the beginning” each time they call. Complainants encounter the equivalent of “poor customer service” when interacting with the current system.

"No one should have to wait months to receive word from the city about what the progress of their complaint is." (City Commissioner Rubio, 23:05)

"[T]he public deserve[s] to know what the investigation process is, and that it is firmly grounded in truth-seeking." (PPA President Schmautz, 14:15)

2. Important parts of the accountability process are inaccessible to the public.

Investigation: Complainants are not given access to their case file. The case file may contain useful information, including information which can prove the complaint itself.

Public Nature of Meetings: The advisory process and deliberations of the Police Review Board are not open to the public. The complainant or survivor is not involved in the Police Review Board process. While officers can attend the PRB meetings, like the community, they are not allowed into PRB Executive Sessions. For the community this makes those sessions double-closed-door meetings.

Law and Policy: The PPA President, when asked directly, generally objected to public hearings in most misconduct and deadly force cases. These objections were made primarily on the basis of “Loudermill rights,” “constitutional due process rights,” and “internal procedural justice” for the subject officer, all of which are also barriers to transparency. (Schmautz, 19:25 – 24:24) During administrative investigations, officers may be compelled to speak by their employer. If there is a reasonable prospect of criminal prosecution, the compulsion to speak renders the statement of the officer inadmissible in a criminal prosecution. Police officers and other public employees retain the fifth amendment right, incorporated to local and municipal governments through the 14th amendment, to be free from self-incrimination in criminal cases. See *Garrity v. New Jersey*, 385 U.S. 493 (1967). With some exceptions, compelled statements are not made public.

Reporting of Administrative Outcomes: It is unclear the extent to which complainants are informed about the findings from their complaint. Complainants do not receive any information regarding discipline imposed. Data reporting is inconsistent. Results of administrative investigations are not published, or if published, are heavily redacted.

The CRC Vice-Chair described the system, from an appellant’s point of view, as “maddeningly opaque.” (Delegato, 1:48:33)

Reporting of Criminal Outcomes: Criminal investigations of police misconduct rarely result in criminal charges or prosecutions, and the explanations for the failure to prosecute criminally are unsatisfactory. The public cannot easily determine whether an event which triggered an administrative investigation has had any parallel criminal investigation, or criminal outcomes.

Complexity Within Current System

The current system is far from easy to navigate. Multiple entities and reviewers can contribute to recommended findings at different phases. Complainants have little information to advocate for themselves and are not offered access to an advocate until the end of the process. Community and law enforcement, including both the PPA and PPB leadership, agree that the current system is too complex.

"[It's] a very complex process and it tends to take a lot of time [...] If you draw a flowchart of our system, I think most people will just shake their heads [and ask] 'Why are there so many steps?'" - Deputy Chief Mike Frome, PPB (06/16/22, 23:00)
"I've always felt that [...] PPB's discipline system was [...] too complex and too layered [...] It seems like we are not ever removing any of the layers, we are just adding more [...] The length and complexity [of the process] deprives [the community] of closure." - PPA President Aaron Schmautz (07/28/22, 10:10)

3. Some parts of the current system are duplicative, confusing, and contradictory.

Recommended Findings: Multiple reviewers can recommend findings, and those recommendations sometimes contradict each other.

For example, unofficial recommended findings come from IA or IPR, then go to the commanding officer who makes the official recommended findings. Then the Branch Assistant Chief, the Internal Affairs Captain, and the IPR may choose to recommend findings that are different from the commanding officer (known as controverting). If the findings are controverted, or if the findings are sustained, or if the case involves deadly force, the Police Review Board then reviews the investigation and again recommends findings. PRB has no obligation to form a majority opinion, so the PRB may send multiple sets of recommended findings to the Chief. The case may then be appealed to CRC, which makes a majority-opinion recommendation on findings. If the Bureau disagrees with the CRC's recommendation, the appeal goes to City Council. With the exception of cases which go to City Council, as provided in City Code, the Police Chief or Commissioner-in-Charge makes the ultimate final decision on findings.

4. Complainants are not offered access to an official advocate to help them navigate the process until close to the end of the process, during the Appeals phase.

Complainant Experience: The complaint process can move among up to five entities – Independent Police Review (IPR), PPB Internal Affairs (IA), Police Review Board (PRB), the Citizen Review Committee (CRC), and the Portland City Council. The entity that does the investigation and the entity that does the discipline are different, which creates complexity. Complainants may not know which part of the system to query regarding their complaint at any given time, because most of these entities do not give proactive updates to community members. There are also many steps within the process.

The process is so complex, there are multiple conflicting flowcharts attempting to explain it. The complainant is not offered an advocate at the beginning of the complaint process to help them navigate the complexities of the system, or to keep them abreast of updates. If the

complainant can remain engaged with the system for long enough, they can eventually file an appeal with the CRC. CRC offers an “Appeals Process Advisor,” who is generally a former CRC member who has access to investigative files and who acts as an appellant advocate. While the matter is on appeal with CRC, the complainant may have an advocate and generally receives better communication and updates about their case. When a case moves from CRC back to PPB, the amount of information available decreases.

5. Officer-involved shootings, and other deadly-force cases, are treated differently from other misconduct investigations.

Policy: A person or surviving family member cannot file a complaint about a police shooting, nor can they file an appeal. Investigations of allegations of deadly force are called “reviews,” and have a different set of findings than other misconduct investigations. IPR cannot conduct investigations of deadly force cases. A person or surviving family cannot appeal a deadly force case. The Citizen Review Committee, which is an important part of many other administrative accountability processes, is not directly involved in officer-involved shootings and other deadly-force cases.

Accessibility and Equity

The system’s complexity and lack of transparency are already acknowledged barriers. These barriers are exacerbated for members of historically excluded communities, such as people with disabilities and those experiencing mental illness. The structural and logistical barriers create inequitable access.

6. There are direct barriers to participation in all aspects of the current accountability system to people based on their ability, housing status, mental health, socioeconomic status, and more.

“[The current system] is broken from top to bottom.” - K.C. Lewis, J.D., Mental Health Alliance (07/11/22, 18:25)

Usability: People with disabilities and people experiencing mental illness in particular are failed by the system; they are faced with navigating a system that is not created to be “user friendly.”

Logistical barriers: The system has logistical barriers for many to navigate the system equitably. For example, if you don’t own a phone, you can’t get a call back.

Public Involvement: The public comment period window is two weeks to comment on PPB policy changes. This is not enough time for the public to engage. Members of the public have little opportunity to engage with the current system of accountability in meaningful ways.

Hours of operation: Most City offices, including most of the City’s current accountability system, operate between 8 AM-5 PM. For complainants with less flexible schedules, who often are lower- and middle-income individuals, this is a direct barrier to participation as well as to receiving information and updates.

7. Burdensome parts of the accountability system disproportionately impact community members who are part of historically excluded groups.

Policy: The standards which officers are expected to maintain do not expect enough of law enforcement in their interactions with historically excluded groups, including based on mental health or illness, race, gender identity, socioeconomic status, and housing status. As a result, the standards police are held to on these issues are too low.

Culture: Police culture and history are rooted in racism, ableism, and discrimination towards historically excluded groups. As a result, current accountability systems structurally fail to

address or even take seriously the impacts of policing on historically excluded groups or the disproportionate level of effort it takes for those community members to participate in the accountability system as they attempt to pursue individual misconduct complaints.

Perception and Trust

The system does not work to repair community trust. Community members already experiencing harm by police must then attempt to navigate accountability in a system that prioritizes the protection of law enforcement. This deterrent results in many community members choosing not to interact with the accountability process at all.

8. There is a current perception by both community members and law enforcement that the accountability system is opaque, unfair, and unjust.

Community trust is broken: The public has a sense that “the deck is already rigged” to favor law enforcement, resulting in the whole system feeling pointless to many. The current system does not earn the trust of the public because the public does not believe that officers are meaningfully held accountable. Additionally, there is minimally available public information, and a lack of communication to complainants.

Investigative process: If an investigator is former law enforcement, community members may still see them as members of the police department. Further, community members do not differentiate between civilian and sworn members of PPB. It is confusing, frustrating, and intimidating to discuss your complaint about PPB with a current or former employee of PPB.

Current Laws and Policies

The system is deeply entangled by multiple levels of law and policy. This can be seen in the collective bargaining process between City government and the police collective bargaining units or associations (also known as “police unions”) as well as in the current standards of conduct and discipline.

9. The current system is governed and protected by several layers of local, state, and federal law and policy, including and especially labor law.

Collective bargaining: The current system is subject to collective bargaining between the City government and the collective bargaining units. Most of the collective bargaining process is not open to the public. No representatives from either the volunteer or staff portions of the current community oversight system are part of collective bargaining processes. What currently exists is the result of many years of collective bargaining by the collective bargaining units.

Law: Current labor laws do not take into consideration the input of the community, but rather favor the police collective bargaining units' input.

Policy: Many investigations are closed by IPR because, even if true, the complaint is not a violation of policy. This is because the current standards of conduct are too lenient. Although new tools intended for accountability may be introduced, such as body-worn cameras, those tools cannot be used effectively to increase accountability without sufficient buy-in and coordination by multiple decision-makers at multiple levels to ensure law and policy align.

10. The standard of review is too deferential to police in the appeal process.

Appeal: The Citizen Review Committee is required to look at the decision made by the commanding officer using a “reasonable person” standard, not a “preponderance of evidence” standard. The Citizen Review Committee’s membership would like to see the standard of review for appeals changed to “preponderance of evidence.”

Effectiveness

The system is unable to demonstrate that it is working. By design, the lack of transparency bleeds into the inability to monitor for effectiveness, improvement, or challenges. The data that are available are limited and do not summarize the impact made to accountability. A decrease in complaints does not necessarily mean the system is reducing misconduct; it could reflect the public's aversion to the system.

11. The current system does not reduce misconduct.

Discipline: Current options for discipline are limited, and due to definitions and requirements created in closed-door bargaining sessions, are often insufficient to reduce misconduct. The current system does not rely on evidence-based practices to reduce misconduct. Letters of reprimand, or suspensions without pay, are not always enough to alter behavior. Command counseling, when offered as a corrective action, does not necessarily alter behavior.

Limitations of Discipline: Discipline, while a form of accountability, only directly addresses the specific subject officer involved; it does not make systemic changes, nor change underlying culture.

12. The current civilian accountability system lacks the comprehensive power necessary to be effective at reducing misconduct.

Limitations of Scope: Some complaints have no avenue for resolution outside of private litigation. Importantly, not everyone has the capability to pursue private litigation. The system's limitations direct some potential complaints to be resolved in civil court, instead of through an administrative system. Civil courts focus on violations of rights, not of policy, and as a result are not the appropriate place for all types of complaints. For example, officer rudeness would not rise to the level of a civil rights violation but should be addressed by the administrative process. This results in some officer misconduct being excused that would not have been excused by a more comprehensive administrative accountability system.

Participation and fact-finding: The system does not encourage, compel or require officers to participate in hearings about misconduct they have allegedly committed or witnessed, nor does it provide consequences when officers do not participate. As a result, in the current system, officers generally don't show up for public hearings; they have only attended CRC hearings 11 times in over twenty years.

13. The current system does not demonstrably meet its required timelines.

Investigations: The Portland Police Bureau's presumptive deadline is 180 days from the date the complaint is assigned, but investigations often stretch out for months longer.

Communication: Complainants are not always notified of the outcomes of their complaints in a timely fashion. Additionally, the public is not aware of *when* complainants are notified.

Conflicts of Interest / Bias

The current system of accountability allows opportunity for bias and conflicts of interest. This is demonstrated by the prioritization of ensuring that police hold and maintain decision-making power in the investigative and discipline process. The system relies on PPB to investigate itself and upholds deference to involved officers.

14. Numerous parts of the system are designed to ensure police, rather than community members, can shape investigations and hold decision-making power.

Recommendation of Findings: The Police Review Board, which is tasked with recommending findings and proposed officer discipline in certain cases, has more representation from PPB than from community members. One CRC volunteer along with one member from a volunteer pool may sit on the Police Review Board. There is also one other non-police representative (one IPR staff member), but the remaining members of the PRB are police officers. Since the PRB generally meets to hear and review cases during the day, this greatly limits the ability of community volunteers with daytime obligations to participate in the PRB process.

15. People who are making decisions about and within the system have a vested interest in the system being upheld.

Investigations: The current system relies on the Portland Police Bureau to investigate itself in most cases for both administrative and criminal allegations. IPR was created in 2002 but didn't do their first investigation until 2013. IPR can't compel testimony and is still reliant on police to do so. This demonstrates that the police are still involved in nearly all cases.

Internal Affairs: PPB IA investigations give a tremendous amount of deference to involved officers. PPB officer judgement receives wide latitude from PPB IA investigators. PPB IA Investigations are not rigorous enough, especially when officer statements and physical evidence do not match up.

Culture

Multiple experts spoke on how the culture of policing creates a barrier to police accountability. Systems and culture work in relationship with one another. To understand the barriers in the system it is necessary to also investigate the culture of policing.

16. Police culture values other police officers and the institution of police above the concept of accountability or community concerns.

Collective Bargaining: Collective bargaining agreements related to police generally require the agreement of the PPA and PPCOA, which work to advance the interests of police and policing. The PPA and PPCOA's core functions include resistance to accountability for police, which causes decision-making processes to be biased towards defending the interests of police officers even when found to have committed misconduct.

Investigations: Portland police, like most police around the country, have a "blue wall of silence," which is a cultural norm that police do not talk about the misconduct or wrongdoing of other officers. This often leads to officers not serving as witnesses or reporting on other officers.

Reprisal: Community groups often report encountering intimidation, harassment, and retaliation by police when filing reports or asking for them to be held accountable. Calls for racial justice in policing have resulted in defensive posturing, which includes non-participation in accountability processes, and racial harassment and violence from police, which itself are acts that police are not held accountable for.

History: Because of a power imbalance, the requests of historically marginalized community members have often been ignored or overlooked. Calls for "restorative" justice between police and community is not possible because we cannot "restore" what we have never had. There has not historically been a perfect or even acceptable policing structure that can be identified as a target for achieving once more.

17. There is an adversarial relationship between police and the public.

Service to institution: Police culture views the public as separate, and often in conflict with, the police. This promotes an “Us vs. Them” relationship and valuing the institution of police over the rights of the public.

Lack of bias reduction: Despite officers receiving training on bias, there is no apparent reduction in disparate treatment and little change in officer behavior. Short mandatory trainings for people who already harbor biases may reinforce their already held bias.

Inadequate Resources for Community Oversight

The system has opportunity for civilian staff and community members to participate in holding police accountable. Volunteer members give their time, resources, and emotional labor without many resources offered in return. The commission heard from members of the Citizen Review Committee detailing the barriers they’ve experienced to participating meaningfully. The system also relies on City Council to make decisions when they are not specialists in this type of work.

18. The current system relies heavily on volunteers, and then does not provide them with sufficient support.

Board Compensation: Civilian oversight is provided by community members who serve on a volunteer basis, and do not receive compensation other than limited stipends.

Time: Civilian volunteers often have other commitments, but the system is not built around understanding their limited time. As a result, civilian volunteers are asked to handle large case files and large caseloads on short timelines. Additionally, the brief window for submitting comments on PPB policy/directives is also a barrier for advisory committees that meet only every month or two.

Training: Civilian volunteers have asked for more training, but training resources are not always available. As a result, civilian volunteers do not receive sufficient ongoing training.

Mental Health: Doing civilian oversight, including reviewing alleged police misconduct, is taxing on the emotional and mental health of volunteers. Community members who volunteer as part of Portland’s current police accountability system do not receive adequate mental health support. This inadequacy is exacerbated for those who, due to their own lived experience, may be more affected by the work of civilian oversight.

19. Community volunteers who participate in the current system often feel their work is ineffectual because it lacks real authority.

Final decision-making: The final decision-making power is vested in entities other than the Citizen Review Committee, which makes members of that committee often feel their input is not heard when their recommendations are not taken. Community volunteers on the Police Review Board, which also only makes recommendations, are outnumbered by police.

Lack of response and implementation: Policy recommendations from community entities often do not receive a response from decision-makers in a timely fashion. Even when they are responded to, community input is regularly not taken. Public input and testimony from the Citizen Review Committee indicates that volunteers often feel like their work is meaningless because their recommendations are often ignored by the City and the police.

Communication to volunteers in current system: CRC reports that they do not receive updates about cases which have come before them on appeal. CRC reports that they only learn the outcome of a case when IPR publishes an annual report.

20. When cases go to City Council, City Council is underequipped to make effective decisions.

Expertise: The City Council does not have the specialized knowledge necessary to make detailed decisions on administrative accountability cases.

"The City Council is not the right place to adjudicate these complex cases. It really is better served through bodies that have the technical knowledge, and the time and the energy, to focus on these cases, because they deserve that focus [...] The City Council does not have the capacity or the technical knowledge to do these cases justice. It's like sending circuit court appeals to the DMV. It's just the wrong place." (Mayor Wheeler, 1:24:10)

The Police Accountability Commission agrees that the following items are best practices in Portland's current system. The Police Accountability Commission will, in future phases of its work, develop a proposal for a system that retains the positive impacts of these best practices.

Transparency

There are elements of the current system that prioritize transparency. First, the current system holds public meetings. Meetings of the CRC are open to the public and offer time for public comment. Additionally, CRC appeal hearings are done in public and allow for community input. The current system publishes data and regular reports (even if imperfect).

Accessibility and Equity

The current system prioritizes access and equity through language access as investigators speak and can complete intake in multiple languages. As one of the multiple points of entry, employees of PPB may make complaints outside their chain of command. Finally, the current system has its own outreach coordinator.

Civilian Staff Involvement

The current system has multiple avenues for frontline staff to be involved in the investigative process. For example, IPR staff can go directly to the scene of officer deadly force incidents. Additionally, civilian staff can complete intake and intake investigations. Staff can do (mostly) independent investigations and have nominal subpoena power for documents and people.

Qualifications of Investigators

The current system has experienced investigators. IPR and Internal Affairs investigators collaborate, team up, advise, consult, share information, knowledge, and experience about how to conduct investigations. All of these investigators have prior investigative experience, including experience with sex abuse, homicides, criminal, personnel, and administrative investigations.

Review and Rigor

The current system offers multiple points of review and opportunity for appeals. At any point, investigation can be sent back to investigator for further work. There is an appeals system in place for both employee (CRC appeal process and Loudermill hearing) and for community members (CRC appeal process).

There is rigor in the investigative process in the current system. IA always finishes the investigation, even if the employee accused of misconduct resigns while the investigation is ongoing. Further the separation of the investigation phase and corrective action/discipline phase can remediate potential conflicts of interest in investigation.

Mediation

The system allows for voluntary mediation as an alternative to investigations for some complaints, and also allows for investigations to continue if mediation fails.

Outcomes

Beyond discipline or corrective action for the subject officer, the current system has capacity for other outcomes. For example, there are "Supervisory investigations" for low-level complaints which cannot lead to officer discipline. Also, if mediation is chosen rather than investigation, the complaint does not lead to discipline. The current system can make policy recommendations.

Appendix E2: PAC Areas of Agreement on Practices to Consider, or to Avoid, from Other Jurisdictions

City of Portland
Police Accountability Commission
Areas of Agreement on Best Practices, and Practices to Avoid,
from Other Jurisdictions

Definitions:

- Oversight Body: The committee, commission, board, or other body, whose members are volunteer community members, that allows for community input into policing. This could include input into administrative investigation and discipline processes, policy and directives of the police, or other aspects of policing.
- Oversight Agency: The paid professional staff, employed by the jurisdiction's government, who work in support of the oversight body.

Standards of Review:

- The "Preponderance of the evidence" standard means that a majority of evidence supports an allegation.
- "Clear and convincing evidence": there has to be much more than 50% of evidence to prove misconduct.
- "Beyond a reasonable doubt": there is almost zero evidence disproving the allegation; this is used for criminal cases.
- The "Reasonable Person" standard means that a theoretical reasonable person, using the same evidence as the officer's commander or whoever made the original decision, could come to the same finding even if the new reviewers disagree with that finding.

Having conducted research in June and July, the Research Subcommittee of the Police Accountability Commission presents these possible best practices to the full Commission for consideration in designing Portland's new oversight system. These practices are not recommendations of the Police Accountability Commission, but will be considered by the PAC as it designs Portland's new police oversight system.

A. Policy

A1. The oversight body is empowered to take input from community members on broad policing policy issues.

Identified in: San Diego (City)

- In the City of San Diego, the Board is able to take input from community members on policy issues, and is not limited in the policy areas they can discuss by law, elected official limitation, or origination from a case or pattern of cases of alleged misconduct.

A2. The oversight body can assess implications of alleged misconduct cases they review, including on policy, procedure, and training, and take action after this assessment.

Identified in: San Diego (City), New York City, San Diego (County)

- In the City of San Diego, the Board can, as part of assessing cases, make recommendations to the Chief of Police on policy changes.
- In New York, these recommendations are on policy, procedure and training and are made to both the Chief and public.
- In San Diego County, the Board can make policy or rule change recommendations along with votes on findings on individual cases.

A3. The oversight body has authority to make recommendations regarding policy and training with the potential to improve police department operations.

Identified in: Maryland, San Diego County

- In San Diego County the oversight body regularly reviews policy, training, and protocols, and recommends changes to police as well as the Mayor and City Council.
- In Maryland, the civilian Police Accountability Board identifies trends and makes policy recommendations about the complaint process.

A4. The oversight body sets policy for the police department.

Identified in: San Francisco, Oakland

- In San Francisco, This authority encompasses a direct policy-setting authority, where the Police Commission sets policy for the police department.
- In Oakland, the Police Department must seek approval from the Police Commission for changes to policy, rules, practices, customs, and General Orders. The Police Commission is the primary policy approving authority in Oakland. Should the Commission disagree with the Police Department, the City Council has 120 days to overrule the Commission's disagreement and confirm the changes proposed by the police department, but the Council is not obligated to do so and in the absence of Council action, the Police Commission decision is final.

A5. The oversight body has a staff unit focused on policy.

Identified in: New York

- In New York, the oversight body has a policy unit of paid staff members. The policy unit does data analysis, includes lawyers, and makes monthly, semi-annual and annual reports.

A6. The oversight body conducts a public review of the police department budget.

Identified in: Oakland

- In Oakland, the oversight body (the [Oakland Police Commission](#)) is the designated place for community input on decisions related to the police and oversight, including public review of and adjustments to the police department's annual budget.

B. Oversight Body Jurisdiction and Authority

B1. The oversight agency fulfills an investigatory and disciplinary function, an auditing and monitoring function, and a review function, to ensure both individual and systematic police oversight, including overall agency practices and policies.

Identified in: Chicago

- Chicago combines the three civilian accountability models: an investigatory and disciplinary function (Civilian Office of Police Accountability and the Police Board); an auditing/monitoring function (Public Safety Inspector General, which reviews patterns and practices for civil rights violations and fairness and consistency of officer discipline); and a review function (Community Commission for Public Safety--which drafts policies and can hire and fire leaders of police and accountability agencies).

B2. The oversight body has authority to receive all complaints, even about items it may not have investigative authority over.

Identified in: Chicago, Philadelphia, Maryland (State)

- Chicago has the Civilian Office of Police Accountability (COPA), which takes all complaints and forwards the complaints not under their jurisdiction to the proper body. COPA is independent of the Police Bureau, and this type of process would show the public that the process is independent of police influence. Intake going through a non-police entity would also avoid the risk of discouraging community members from filing through police or at police buildings.
- Philadelphia's civilian oversight body receives all complaints except those related to tardiness/labor situations.
- In Maryland, the civilian Police Accountability Board touches all three layers of the process, including complaint, charging decision, and appeal. The civilian Board interacts directly with citizens making complaints, which increases both face time and credibility with the general public.

B3. The oversight body has defined authority over, at minimum, alleged misconduct directly affecting the public.

Identified in: San Diego (City), New York, San Francisco, San Diego (County), Denver

- In the City of San Diego, the Board has authority over officer-involved shootings, deaths in custody and other specific incidents: Force resulting in bodily injury; dishonesty including perjury, false reports & concealing evidence; cases of substantial public interest; where data shows pattern of inappropriate policies; sexual misconduct; physical assaults; domestic violence.

- In San Francisco, the oversight body investigates unlawful search/arrest, biased policing, dishonesty, sexual assaults, use of force with bodily injury/death, officer shootings, misconduct, improper performance including unwarranted action, neglect of duty, use of force, conduct unbecoming (like rudeness).
- In San Diego County, the list includes excessive force; discrimination; sexual harassment; improper discharge of firearm; illegal search/seizure; false arrest; false reporting; criminal conduct; death caused by law enforcement; misconduct, improper or illegal act, omission or decision that directly affects a person or property; violation of orders; unbecoming conduct including discourtesy, harassment, intimidation, procedure, retaliation, untruthfulness; use of force with injury; force used at protests.
- New York is a partial best practice, as the list is limited; their Board has authority over Force, Abuse of authority, Discourtesy, Offensive language (FADO cases). This includes improper search/seizure, failure to identify, untruthfulness, sexual misconduct. However, in New York it does not have authority over theft of money, neglect of duty, corruption, perjury and off duty criminal conduct.
- Denver's Independent Monitor may conduct investigations into serious offenses by uniformed personnel and citizen complaints regarding force, discrimination, retaliation, discourtesy, or in the best interest of the city. The oversight board may review closed cases where the Monitor conducted the investigation. The case may be referred back to the agency with recommendations on the outcome and/or with recommendations related to policies or procedures.

The Police Accountability Commission also identified several counter-examples, which it considers practices to avoid:

- In New York, Internal Affairs has authority over theft of money, neglect of duty, corruption, perjury, and criminal conduct committed while off duty.
- In the City of San Diego, Internal Affairs does administrative investigations of Officer-Involved Shootings, with the oversight body only conducting an administrative review of completed Internal Affairs investigations. Additionally, following this review the case is examined by a "Police Department Shootings Review Board" for policy, tactics, and training issues, with the Commission on Police Practices only able to agree or disagree with the PDSRB's determinations.
- In San Francisco, the oversight body has no authority if the officer was off-duty at the time of the alleged misconduct.

B4. The oversight board oversees both the police department and the oversight agency investigating complaints.

Identified in: San Francisco

- In San Francisco, the [Police Commission](#) oversees both the Department of Police Accountability and the Police Department.

B5. Board has authority to send cases to the District Attorney, Grand Jury or other authority for criminal investigation.

Identified in: San Diego (City)

- In San Diego, the oversight body has the authority to ask for a criminal investigation.

C. Makeup of Oversight Board

C1. The oversight body is large enough to be representative of the City's population.

Identified in: Washington DC, San Diego (City), San Diego (County), San Francisco, New York
A larger board membership allows for more diversity, demographic, and geographics reflected in the community. It also allows the oversight body to create smaller panels for particular tasks and ability to have smaller panels.

- In the City of San Diego, the oversight body has 23 members.
- In New York, the oversight body has 15 members.
- In San Diego County, the board can have between 9 and 15 members. County code currently sets the number at 11.

The Police Accountability Commission also identified counterexamples in Washington DC and San Francisco, which it considers practices to avoid:

- Washington DC's oversight board only has five members and is expanding to 9.
- In San Francisco, there are only seven member positions on the oversight body.

C2. Board member makeup should reflect the demographic and geographic diversity of the community

Identified in: Washington DC, San Diego City, New York

- The City of San Diego Charter requires "taking into consideration sex, race and geographical area so the membership [...] shall reflect the entire community."
- Washington, DC expanded from 5 to 9 members to increase geographic diversity.
- The New York Charter requires the "Board to reflect diversity of the City."
- In Denver, board membership must reflect the city's diversity: ethnic, racial, geographic, professional backgrounds.

C3. Selection criteria for membership includes subject matter expertise

Identified in: Oakland, Denver, Seattle

Considered as a makeup of board members. Examples include people with trial experience, civil rights or public defense lawyers, police accountability experience, and lived experience.

- In Denver, board membership must reflect the city's diversity of professional backgrounds and expertise.

The Police Accountability Commission also identifies a partial best practice in Seattle:

- In Seattle, the mayor, city council, and Community Police Commission each appoint seven commissioners. Two positions are designated for public defense or civil liberties lawyers. All of these are considered best practices. However, the Police Accountability Commission identifies as a practice to avoid that there is also one position reserved for a police union representative and one position for a member of the Police Management Association.

C4. Designated alternates for oversight body

Identified in: Oakland

Alternates are selected along with active commissioners and are available when openings occur. Alternates serve on ad hoc committees.

D. Selection of Oversight Board

D1. The oversight body's members are appointed by City Council.

Identified in: San Diego, San Francisco

- In San Diego City, the Council as a whole appoints members.
- In San Francisco, the Mayor and Board of Supervisors appoint members.

The PAC also identified counterexamples, which it considers practices to avoid:

- In Washington, DC, only the Mayor appoints members of the oversight body.
- In San Diego County, the County Chief Administrative Officer sends nominations to the Board of Supervisors, who appoint review board members.

D2. Members of the oversight body have to agree to certain terms upon appointment and reappointment.

Identified in: San Diego City

- In the City of San Diego, Board members take an oath and sign an affirmation upon appointment and reappointment.

D3. Community members apply for oversight body membership, and applications are screened before passing them on to the appointing authority.

Identified in: San Diego County, Denver, Philadelphia, Oakland

- In San Diego County, the applications are reviewed by staff, who conducts interviews and ensures the District Attorney does a background check on candidates.
- In Denver, applications are received and screened, with interviews conducted by a nominating committee.
- In Philadelphia, applications are received and sent to the appointing authority (City Commissioners), who select the appointees.
- In Oakland, responsibility for selecting commission members is shared between a community-based selection committee and City Council, who must accept or reject the entire slate recommended by the selection committee. However, this system does not apply to all members of the Police Commission; three members are chosen by the Mayor subject to City Council approval.

D4. Oversight Body members are given training to exercise their duties on behalf of the public.

Identified in: San Diego (County), San Diego (City), Los Angeles (County), Philadelphia

- In San Diego County, oversight board members are trained on government, code, rules, public meetings laws, state laws, officer rights, disciplinary process, police training, constitutional and civil rights law, collective bargaining agreements, diversity and inclusion, and community perspectives on law enforcement.
- In Philadelphia, the system in the process of being implemented requires Civilian Review Board members to receive training on police law, investigations, criminal justice partners, the DA's office, policies and procedures, state constitutional law, community and civil rights organizations.

E. Terms and Removal of Oversight Board Members

E1. Members serve staggered, multi-year terms.

Identified in: San Diego City, New York, San Diego County, Denver

- In the City of San Diego, members serve two-year terms, with terms staggered so 11 or 12 of the 23 members' terms expire at a time.
- In San Diego County, members serve three-year terms.
- In New York, members serve three-year terms.

E2. Members may apply for renewal up to a total maximum length of service. Renewal applications are evaluated and considered by appointing authority.

Identified in: San Diego City, New York, San Diego County, Denver

- In the City of San Diego, members may serve up to eight years, and then can apply again after two years.
- In San Diego County, board members may renew one time for an additional three years.
- In Denver, members may apply for another term and are considered by the nomination committee.

E3. The oversight body has defined criteria for automatic member removal.

Identified in: San Diego City, New York, San Diego County, Denver

- *Attendance/Membership Activity*: Predetermined number of unexcused absences (Denver, San Diego City-two consecutive, County San Diego-three consecutive), unmet minimum participation, or workload requirement, inactivity in board activities including subcommittee work (San Diego City). Excused absences can be for unforeseen event, health reasons, out of town, conflict of interest (San Diego City).
- *Administrative*: Currently incarcerated and unable to serve; financial or personal conflict of interest (San Diego City); death, resignation, no longer living in San Diego County, failing to complete training (San Diego County)
- *Ethical and Policy Violations*: unethical conduct, misuse of position/documents; violation of confidentiality (City of San Diego).

E4. The oversight body has defined authority and criteria for discretionary removal or referral to the appointing authority for removal.

Identified in: San Diego (City), San Diego (County)

- *Vote by board members*: removal recommendations forwarded to City Council for consideration, defense allowed (San Diego City).
- *Council*: Board Chair notifies Board of Supervisors, who can remove members at any time (San Diego County).

E5. Members whose terms have expired continue to serve until their replacement is appointed.

Identified in: San Diego (City), San Diego (County)

- In San Diego City, members can serve until the next person is appointed.
- In San Diego County, members can continue in seat until replacement is appointed.

F. Staff

F1. The oversight body, manages, and conducts reviews, the Executive Director of the oversight agency, and in some cases can hire and fire that person.

Identified in: Washington DC, San Diego City, New York, San Diego County, Denver, Oakland

- In Oakland, the oversight body can hire and fire the agency director.
- In Denver, with the assistance of a selection committee, the oversight board screens and selects three agency director candidates. A community process led by the oversight board concludes with the selection of a nominee who is confirmed by city council. The oversight board has the authority to fire the agency director.
- In San Diego County, the Executive Director serves at the pleasure of the Board. The Board conducts annual performance reviews and manages the Executive Director.

The Police Accountability Commission also identified several partial best practices:

- In Washington DC, the oversight body hires the Executive Director and conducts annual performance reviews. Contracts are for three years and may be renewed.

- In New York, the Board sets policy including personnel policy, and hires the agency director.
- In the City of San Diego, the oversight body conducts annual performance reviews of the Director. However, the City Council hires and fires the Director.

F2. The oversight body hires, manages, and can choose to fire the top monitor or inspector-general.

Identified in: Oakland

- In Oakland, the Police Commission hires and fires the Inspector-General.

F3. The oversight body is directly involved in hiring and, if necessary, firing the police chief.

Identified in: Oakland

- In Oakland, the Commission recommends four candidates for police chief to the Mayor, who chooses and hires the chief from among these candidates. It also has a key role to play in firing, and with enough votes can fire the police chief *independent of the Mayor*.

F4. The oversight body has the authority to hire independent legal counsel.

Identified in: Denver, Oakland, San Diego (County), San Diego (City)

City attorneys are responsible for representing the interests of the municipality, which sometimes conflicts with the interests of a civilian police oversight agency.

- In Denver and Oakland, the agencies have the authority to hire Independent counsel who gives civilian oversight agency the legal advice they need to carry out its duties.
- In San Diego County, the Board has independent legal counsel.
- In San Diego City, the Board is required to retain legal counsel on contract or as an employee.

The Police Accountability Commission also identifies a partial best practice in Washington DC:

- In Washington, DC, the board has independent legal counsel, but in court is represented by the US Attorney (this is unique to the District of Columbia, which is not in a state).

The Police Accountability Commission also identified a counter-example in New York, which it considers a practice to avoid:

- In New York, they have lawyers to support misconduct hearings but not legal counsel separate from the City's.

F5. The oversight agency has staff to support agency operations.

Identified in: Philadelphia, Washington, DC, San Diego (City), San Francisco, New York, San Diego (County)

- Philadelphia's new system, being implemented currently, will in addition to an Executive Director have staffers paid by the city to support the work of the Civilian Review Board.
- In Washington, DC, there are 22 staff: a Deputy Director, 11 investigators, 3 supervisors, administrative staff, and public affairs/community engagement staff.
- In San Francisco, staff work in Divisions: Audit, Mediation, Policy, Investigation, Records and Outreach.
- In New York, they have 180 staff, including specific units on Outreach, Intra-governmental affairs, Racial Profiling and more.
- In San Diego City, there are currently 6 staff who respond to public inquiries, take complaints, prepare reports, send meeting notices and prepare minutes.

- In San Diego County, they have 8 employees including at least one investigator and legal counsel.

The Police Accountability Commission also identified a counter-example in San Francisco:

- In San Francisco, the commission Secretary, which is a staff position, is a police sergeant, which the PAC identifies as a practice to avoid.

F6. Oversight body staff are provided adequate training for their roles.

Identified in: New York

- In New York, civilian investigators are trained on policies, interviewing, evidence, patrol mandates, operations, legal issues including stops, frisks and searches.

The Police Accountability Commission also identified counter-examples in New York, which may be considered practices to avoid:

- Also in New York, investigators must spend two days at the police academy and have 8 years of prior experience; it's not certain whether the police academy requirement is appropriate nor that 8 years is needed.
- Furthermore, the NY Police Department gives administrative and legal guidance to staff; it is not clear whether this is appropriate.

F7. The oversight system may reach outside city structures to complete its work.

Identified in: Albany NY

- In Albany, NY, the review system is supported by staff at the Government Law Center at Albany Law School.

G. Public Nature of Meetings / Hearings

G1. The Oversight Body holds meetings which are open and accessible to the public.

Identified in: San Diego City, New York, Oakland, San Francisco

Many jurisdictions include not only open public meetings of the oversight body, but written guarantees of communication about public notice, agenda item publication, etc.

- In San Diego (City), committee meetings are public and publicly noticed 72 hours in advance.
- In New York, meetings include public input and include publicly sharing information on agency operations, complaint activity, and disposition of cases.
- In Oakland, the meetings of both the oversight body and its sub-committees are open to the public with participation throughout. Names of those expected to attend Oakland Police Commission meetings are included on their meeting agendas.
- In San Francisco, meeting summaries are published after each meeting.

G2. The oversight agency holds open evidentiary hearings on misconduct complaints and public investigative reports.

Identified in: Oakland

- This is a previous practice of the oversight system in Oakland which ended in 2006. The public could follow the cases to understand exactly what the allegations of misconduct were against officers, how the complaints were investigated, and what the findings and recommendations for discipline were. A California court case ended this practice, but Oakland advocates point to it as a best practice even though it is no longer possible in California.

G3. The oversight body has a set list of agenda items which are by default for meetings.

Identified in: San Diego (City), San Diego (County)

- In the City of San Diego, their set agenda includes: business is transacted, presentations are heard, communicate with public, hear testimony but not on particular cases, training is given, Executive Director report, Police department report, committee and chair report, City attorney report, old business, new business.
- In San Diego County, agenda items include: Roll call; Approval of minutes; Work report by staff; Chair report; training for members; public input including from complainants up to three minutes; New Business; Unfinished Business; Board Member Comments; and Sheriff liaison “query”. Additional items may be filed with the Chair by members.

G4. The oversight body meets regularly with the agency director, chief of police, and other officials.

Identified in: Denver

- In Denver, the oversight board holds open public meetings with the police chief, manager of public safety, and oversight agency director where policy issues, etc. can be discussed. Open meetings with leaders in public safety and accountability give the oversight board and public the opportunity to discuss critical issues, ask questions, and consider policy issues.

The Police Accountability Commission also identifies a partial best practice in Los Angeles County:

- In Los Angeles County, the head of the law enforcement agency or their designee attends and participates, but has no vote, on the oversight body. This provides information and perspectives to the commission, but it has not yielded demonstrable buy-in from law enforcement.

G5. The oversight body holds open meetings regularly and frequently.

Identified in: San Diego (City), New York, San Diego (County)

- In the City of San Diego, open meetings are generally held once per month. The oversight board held 11 open meetings in 2021.
- In New York, the oversight body holds open meetings at least once a month, with exceptions for August and December.
- In San Diego County, open meetings are held 1-2 times per month.

G6. Hearings on individual cases are generally open to the public, with limited, specific exceptions defined in the law.

Identified in: Maryland, Seattle

- In Maryland, every county has a Trial Board, and its proceedings are open to the public with limited exceptions (such as to protect the identity of a victim).
- Seattle is a partial example of this practice, as in Seattle some appeal hearings are open to the public. If the officer chooses arbitration, then they are not.

The Police Accountability Commission also identified several counter-examples, which are considered practices to avoid:

- In the City of San Diego, closed meetings are held twice a month, and are confidential to hear cases and other matters not subject to disclosure. Presentations from the Shootings Review Board and discussions of discipline occur in closed meetings.
- In New York, hearings are not open to the public.

- In San Diego County, hearings are not open to the public. In closed session, Board, staff, and legal discussion is confidential.

H. Budget

H1. The oversight body has a publicly disclosed budget.

Identified in: New York, Philadelphia, Washington DC, San Diego (City)

In several cities, the budget is guaranteed at a certain level; it is not clear whether these budgets are sufficient to fund the agency in each jurisdiction.

- In New York, the annual budget is nearly \$39 million.
- In Philadelphia, the police oversight budget is limited to less than 1% of the police department's budget.
- In Washington, DC, the oversight budget is \$2.2 million, mostly for salaries.
- In the City of San Diego, the budget of the Citizens' Review Board on Police Practices, which existed from 1988-2016, was \$1,327,134 for three staff members. The Commission on Police Practices, which was created in 2020, has a budget of about \$2.5 million.

H2. The location of the office is independent and accessible to the community.

Identified in: Washington DC, San Diego City, San Francisco, New York

- In Washington, DC, the office is located in a private office space.
- In the City of San Diego, the office is separate from where the Mayor and Internal Affairs are housed.
- In San Francisco, the office is separate from City Hall and the police.
- In New York, the Board has its own office space in Manhattan, and can do interviews in any of the five boroughs.
- The Oakland oversight agency is located in an office building that is part of the City Hall complex and also home to the City Permit Center, Finance Department, Housing Resource Center. The police department is located elsewhere.
- The Denver oversight agency is located in the Denver Post Building that also houses parks and public health departments, economic development office, and Civil Service Commission. The Denver city government leases space in this privately-owned office building.

The Police Accountability Commission also identified a partial best practice in San Diego County:

- In San Diego County, the office is located separate from the Sheriff's office. However, the oversight body's office may have security provided by the Sheriff's office, which is a practice to avoid.

I. Audit Functions

I1. The oversight agency reviews all misconduct investigations to ensure they are complete before findings and discipline are determined.

Identified in: Seattle

- In Seattle, there is an Inspector-General who reviews investigations prior to findings and discipline being determined. This practice helps ensure investigators conduct thorough investigations, and inserts an added layer of oversight and review to the process.

I2. The oversight agency audits closed cases alleging misconduct and may recommend policy changes.

Identified in: San Francisco, New York, Oakland

- In San Francisco, the audit division reviews closed complaints.
- In New York, the Executive Director audits closed cases.
- In Oakland, the Inspector-General is responsible for ensuring allegations of misconduct are thoroughly investigated, and identifies systemic policies needing improvement. This continues oversight similar to the DOJ or court monitor.

I3. The oversight body may conduct Sentinel Event Reviews, and/or reviews of undesirable police-related activities.

Identified in: Seattle

[Sentinel Event Reviews](#) are in-depth, root cause analyses of significant and undesirable police-related events, with the goal of prevention rather than response. A broad review of incidents of concern to the community for the purpose of learning from past mistakes gives the community and police the opportunity to learn and develop new policies and practices that will lead to better outcomes.

- In Seattle, the Office of the Inspector-General oversees Sentinel Event Reviews, which are led by a select group of community members, police representatives, and OIG.

J. Reporting

J1. The oversight body and agency are required to regularly and frequently issue public reports.

Identified in: Washington DC, San Diego (City), San Francisco, Philadelphia, Seattle, Denver

- In Washington, DC, there is an annual report and a semi-annual review, as well as a use of force data report.
- The City of San Diego oversight body issues semi-annual reports to the Mayor and City Council.
- San Francisco's oversight body issues annual reports.
- Philadelphia's oversight body issues annual reports.
- In New York, the policy unit issues monthly, semi-annual, and annual reports on data (a total of 14 reports a year). The monthly statistical reports are generated before each meeting.
- In Seattle, City Code requires an annual report.
- In San Diego County, there is an annual report.
- In Denver, the oversight body issues an annual report, and has one of its meetings specifically designed for public comment on the report.

J2. Annual reports of the oversight body and oversight agency have required contents which are defined by law. By listing specific reporting requirements in the code for agency and commission reports, it ensures the same type of information will be available to the public

and others over time. This facilitates year-to-year comparisons and reliable access to information.

Identified in: Seattle, San Diego (City), San Francisco, Philadelphia, New York, San Diego (County)

The Commission identifies the definition of required contents in law as a best practice.

- In Seattle, the required contents of agency and commission annual reports are defined in code.
- In the City of San Diego, the reports include duties and powers, redacted case summaries, and summaries of committee work. This is a partial best practice, as it is not required to include statistics on how the board voted on discipline (though reports often do include this information).
- In San Francisco, the annual report includes cases, allegations, and demographics, disaggregated by geographical area or district, as well as policy recommendations and their status, and a summary of outreach.
- In New York, reports include agency operations, complaint activity, case dispositions, and discipline.
- In San Diego County, the annual report includes Board activities, recommendations/outcomes, trends, Board mission, staff, members' biographies, messages from Chair & Executive Director; complaints by year, quarter, allegations, by unit, type and agency. Lists Board actions by case number, date and findings, lists death cases.

J3. Reporting on closed cases includes all information, except complainant names in specific situations.

Identified in: Washington DC, San Francisco, Philadelphia, Seattle

Several jurisdictions publish data on closed cases, with dates, facts of the case, officer names, and findings included. Sometimes, there are exceptions for complainant names, but these are specifically defined exceptions to open reporting.

- In San Francisco, data on officer-involved shootings includes names of officers and dates.
- In Philadelphia, data on officer involved shootings includes names of officers and dates. Every case reviewed is posted with detail on complaints/findings/outcomes with names (if complainant allows) as well as the names of the officers involved.

The Police Accountability Commission also identified several partial best practices:

- While investigations are still proceeding, Philadelphia publishes all the information in anonymous form (with names withheld), and republishes with identifying information after investigations are complete.
- In Washington, DC, case decisions are posted online without the officer or complainant's names, but with facts of the case supporting the findings.
- In Seattle, Closed Case Summaries are posted online. The document includes a summary of the incident and alleged misconduct, as well as the agency director's response to each allegation of misconduct. If discipline is imposed, the type and severity of discipline are also included. Closed Case Summaries do not list complainant names. However, Closed Case summaries also do not list employee names.

The Police Accountability Commission also identified a counter-example in New York, which it considers a practice to avoid:

- In New York, data on cases that went to mediation are not public.

J4. The oversight body maintains an online tracker of commission policy recommendations, including their responses and implementation.

Identified in: Seattle

- In Seattle, the Community Police Commission has a [tracker](#) that provides reasons for the recommendations by the commission, civilian agency, and the Inspector-General that have not been implemented, as well as responses and progress on implementation.

J5. Online reporting includes complaints, findings, outcomes, and discipline, as well as aggregated data.

Identified in: New York, San Francisco, Philadelphia

- In New York, online reporting includes sample cases, complaints, allegations, victims, and officers; data includes race, gender, age, and outcomes. In New York, discipline letters are posted online, and [include officer names](#).
- In San Francisco, the online dashboard shows case statistics, open, closed, and sustained allegations, and findings.
- In Philadelphia, the online dashboard shows case statistics, open, closed, and sustained allegations, and findings

J6. The oversight body can propose the release of otherwise-confidential information.

Identified in: New York

- In New York City, the [Civilian Complaint Review Board](#) can propose the release of otherwise confidential information in certain circumstances.

K. Appeal Process

K1. Police officers can appeal findings, or the dismissal of a case.

Identified in: San Diego (City), New York

- In the City of San Diego, officers have 30 days to rebut findings, after which point appeals are not accepted. Supervisors cannot file on officers' behalf.
- In New York, officers may appeal findings.
- In San Diego County, officers may appeal the dismissal of a case.
- In Seattle, the police contract gives sworn employees the right to appeal through either the Public Safety Civil Service Commission or arbitration.
- In Oakland, officers are entitled to a Skelly (Loudermill) hearing when there is a sustained finding and recommended discipline is dismissal, demotion, fine, or suspension.

The PAC also identified a partial best practice in San Diego County:

- In San Diego County, officers may file appeals within 10 days, but must include new evidence. This may be too limited a reason to appeal as well as too limited of a timeline.

K2. The complainant may appeal findings and/or dismissal or decision not to investigate.

Identified in: New York, San Diego (County), San Francisco

- In New York, complainants can appeal findings. Appeals can be made even if case is not investigated, if there is new evidence or if it will “serve justice”. These complaints must generally be filed within 30 days, but exceptions can be made.
- In San Diego County, complainants can object to the dismissal of a case.
- In San Francisco, a community member may request an investigative hearing if they disagree with findings.

The PAC also identified a partial best practice in San Diego County:

- In San Diego County, complainants may file appeals within 10 days, but must include new evidence. This may be too limited a reason to appeal as well as too limited of a timeline.

K3. The oversight body has independent authority to reopen cases.

Identified in: San Diego (County)

- In San Diego County, the Board may reopen a case if it is “in the public interest” to do so.

K4. Appeals are heard by the oversight body.

Identified in: New York

- In New York, the oversight body holds decision-making authority.

The PAC identified partial best practices:

- In New York, the appeal is heard by the same panel that heard the original case, as the appeal must include new information. Exceptions are made if an oversight body member from the original panel has left the oversight board, in which case another member can be assigned to the appeal.

The PAC also identified two alternate examples which may be worth examining:

- In San Diego County, officer appeals are heard by the Civil Service Commission. The findings of the Civil Service Commission are final. The oversight body’s involvement is limited to receiving a copy of the appeal and the ability to file a statement about misconduct and supporting evidence 15 days before the Civil Service hearing; the [oversight body](#) is able to attend the hearing, subpoena witnesses, present evidence, and cross-examine.
- In the City of San Diego, appeals are to the civil service commission, as defined in the city’s Collective Bargaining Agreement.

K5. The preponderance of the evidence standard is used on appeals.

- In San Diego County, the Civil Service Commission, when hearing appeals, uses the preponderance of the evidence standard to adjudicate the appeal.

L. City Council Involvement

L1. The City Council can send a case back to the oversight body for reconsideration.

Identified in: San Diego (County)

- In San Diego County, the County Board of Supervisors can send a case back to the Board for reconsideration.

The PAC also identified a counterexample in the City of San Diego:

- In the City of San Diego, the Mayor can make a final decision if the police disagree with the Board’s finding, instead of sending the dispute to the oversight body for reconsideration.

M. Board Compensation

M1. Community members serving on the oversight board are compensated for their time and work.

Identified in: New York, Chicago, Los Angeles (County), Philadelphia

- In New York, members of the oversight body are compensated per term. Some members decide to decline compensation and work *pro bono*.
- In Chicago, oversight board members are provided with a \$12k annual stipend; the chair is provided a \$15k annual stipend.
- In Los Angeles County, oversight board members receive a \$5k annual stipend.
- In Philadelphia, the Citizen Review Board which has been authorized, but has yet to be convened for the first time, will have members who receive a small stipend for their work.
- In Denver, compensation is limited to \$1,200 per year and members are also reimbursed for expenses.

The Police Accountability Commission also identified a counterexample in Washington DC:

- In Washington, DC, oversight body members are not compensated.

M2. Community members serving on the oversight board are reimbursed for any expenses they incur as part of their public service.

Identified in: San Diego (City), San Diego (County)

- In the City of San Diego, the Board is reimbursed for “authorized, reasonable, and necessary expenses.”
- In San Diego County, the Board is also reimbursed for expenses incurred as part of public service.

N. Internal Structure

N1. The oversight body is able to set both its Bylaws and its other internal processes, within broad parameters established in law.

Identified in: San Diego (City), San Diego (County)

- In the City of San Diego, the Commission on Police Practices is able to set its own internal processes. The CPP can amend Bylaws with support from a two-thirds majority of its membership, and other internal processes such as rules of order, administrative rules, and operational and standing rules by majority. Commissioners can submit proposals 10 days before a meeting to modify the rules.
- In San Diego County, the Board may adopt its working rules by majority vote, and must review them every four years.

The PAC also identified a counter-example in San Diego County:

- In San Diego County, the County Board of Supervisors must approve the oversight body’s working rules.

N2. Quorum: The oversight body may meet and make decisions when a majority of seated members are present, subject to a minimum threshold defined by law.

Identified in: San Diego (City), San Diego (County)

- In the City of San Diego, there are 23 positions on the oversight body, but quorum is a majority of the seats which are filled. However, quorum can never fall below 7, meaning

that even if there are fewer than 13 positions filled, 7 members must be present for the oversight body to meet.

- In San Diego County, quorum is set to a majority of seated members. To ensure enough participation in each decision, votes require the support of a majority of seated members *regardless of how many attend a particular meeting*.

N3. The oversight body may establish and define its own officer positions from among its voting membership.

Identified in: San Diego (County), San Diego (City)

- In the City of San Diego, the oversight body determines its own leadership. There is a Chair of the oversight board who generally acts as the spokesperson, runs meetings, coordinates communications, appoints committee members, coordinates case review teams; a Vice Chair who leads in the absence of the Chair and trains new members, and a Second Vice Chair who leads in the absence of both other officers and acts as the parliamentarian. All may vote and join case review teams themselves.
- The City of San Diego's Parliamentarian advises the board to ensure they are properly following procedures, consulting with the chair before the chair makes a ruling.
- In San Diego County, the oversight body determines its officers. There is a Chair who presides, serves as a spokesperson, signs documents, designates subcommittees, and ensures lawful operation. There is a Vice Chair who serves as Chair in the Chair's absence; a Chair Pro Tempore who serves if both the Chair and Vice Chair are absent; and a Secretary who keeps records of proceedings, is the custodian of records, and keeps attendance and membership.

N4. The oversight body may establish and define its own committees or sub-committees, which address different aspects of the oversight body's work.

Identified in: San Diego (City), Oakland, Seattle

- In the City of San Diego, the oversight body determines its own committees.
 - Committees can be standing or ad hoc; sub-committee chairs remain for one year or for the duration of the ad hoc committee. Meetings are held at least quarterly.
 - Committees may have no more than roughly thirty percent of the overall oversight body's membership (seven members maximum, with San Diego having 23-25 total members on its oversight board).
 - There is a defined list of standing committees which the oversight board may change over time and which address the various roles of the oversight body. For example, San Diego has a standing policy committee to evaluate police policy changes and present to the full oversight board for approval. Others are Executive (functioning of Board), Education (sets up presentations for board's meetings), Outreach, Rules (bylaws and operating rules), Recruitment and training.

- The Oakland police commission has ad hoc committees that work on specific issues. Examples include: body worn camera policy, community outreach, militarized equipment.

The Seattle police commission has (or had, based on the 2019 Annual Report) the following subcommittees or workgroups: Strategy, Behavioral Health, Governance, Community Engagement, Police Practices, State Legislative Agenda, Complainant Appeals Process.

N5. Oversight body members are encouraged to vote, with recusals in limited circumstances and/or abstentions discouraged

Identified in: San Diego (City), New York, San Diego (County)

- In New York, members of the oversight body cannot abstain from votes, and can only recuse themselves for conflicts of interest.
- In the City of San Diego, votes are taken by roll call, with members obligated to explain if they abstain. Board members can ask to be removed from a case if they have a conflict of interest.
- In San Diego County, Board members cannot serve to hear a case if they have a conflict, such as being the family or friend of a party, a witness to the event, or having a financial interest or bias.

P. Discipline and Corrective Action

P1. The oversight body has the final say on the minimum level of discipline.

Identified in: Oakland

- In Oakland, the police commission has a discipline committee which makes the final decision when the oversight agency and the chief of police disagree on either findings or discipline.

The PAC identified a partial best practice in Washington, DC and in San Francisco:

- In Washington, DC, the Chief of Police is obligated to impose the discipline determination from the oversight body, but may appeal the ruling to three legally-trained complaint examiners. Additionally, discipline must be imposed based on findings by an administrative judge.
- In San Francisco, oversight agency staff makes a recommendation for discipline. The oversight board determines discipline only if the recommendation is greater than a 10-day unpaid suspension, with lesser disciplinary recommendations received and acted upon by the police chief.

The Police Accountability Commission identified several counter-examples, which are considered practices to avoid.

- In Philadelphia, the Citizen Review Board makes recommendations for discipline or corrective action, but they do not have the power to execute it; it is up to the Police Department to follow the recommendations. Although the police must say why they would deviate, this nonetheless removes final authority from the community oversight system.
- In New York, the police commissioner can accept, modify, or reject findings made by the panel that reviews cases, and can also refer the case to the full oversight board. Ultimately, the commissioner has final say on discipline. Additionally, the police

commissioner can reduce recommended discipline, and decide not to pursue discipline if an officer has no disciplinary history or has criminal charges pending.

- In San Diego County, the oversight board's determinations on discipline are non-binding recommendations; when there is a sustained finding the oversight board can only recommend discipline.
- In the City of San Diego, the commanding officer of the officer found to have committed misconduct notifies the oversight body of proposed discipline, and the oversight body's role is limited to determining if this discipline is consistent with the discipline matrix.

P2. Police leadership may deviate upward from the discipline chosen by the oversight agency, but not downwards.

Identified in: Maryland (State)

- In Maryland, the Chief of Police is bound by the charging decisions made by the civilian charging committee. The civilian oversight process sets a "floor" below which discipline cannot fall, which can serve as a check on the disciplinary matrix, if the discipline required by the matrix is insufficient to the particular case. The Chief may impose greater discipline than that chosen by the oversight body.

The Police Accountability Commission also identified a counter-example in New York, which it considers a practice to avoid:

- In New York, the police commissioner can reduce recommended discipline, and decide not to pursue discipline if an officer has no disciplinary history or has criminal charges pending.

P3. There is a defined discipline matrix, including defined options for discipline or corrective action and applicable to the same jurisdiction as the oversight body, with limited flexibility for application to individual cases.

Identified in: New York, San Diego (County)

- In New York, there is a defined structure for discipline and corrective action, including options for: Instruction, training, unpaid leave for up to 10 days, warning and admonition, loss of vacation, suspension, dismissal probation, and termination. Additionally, giving false testimony to investigators as part of the original investigation can result in the officer being terminated even if the original complaint and findings would not have necessarily resulted in termination.
- In San Diego County, the Board's recommended discipline can note trends and take into account the officer's individual history.

Q. Hearings and Findings

Q1. The oversight body uses a standard set of four options for findings in all cases.

Identified in: Washington DC, Seattle, San Diego (City), San Francisco

The PAC finds this standard set of four options to be a broad best practice, with several examples of identical or near-identical usage differing only in scope of application or terminology used: an option if the complaint is sustained, if the complaint is not sustained due to lack of information or evidence, if the complaint is not sustained due to the alleged events not occurring, and if the complaint is not sustained due to the officer's actions being within law and policy.

- In Washington, DC, these options are labeled Sustained (out of policy), Exonerated (in policy), Unfounded (did not happen as alleged), and Insufficient Facts.
- In Seattle, these options are labeled Sustained and Not Sustained, with Not Sustained including Unfounded, Lawful and Proper, and Inconclusive.
- In the City of San Diego, all cases not involving Officer Involved Shootings can have one of the four findings, labeled Sustained (violation), Not Sustained (insufficient evidence), Unfounded (Act did not occur), and Exonerated (action justified, legal, and proper).
- In San Francisco, findings include Improper Conduct (sustained), Proper Conduct (in policy), Unfounded, and Insufficient Evidence.
- In New York, findings include Substantiated (out of policy), Within Guidelines (in policy), Unfounded (did not happen as alleged), and Unable to Determine (insufficient evidence).
- In San Diego County, findings include Sustained, Not Sustained (insufficient evidence), Unfounded (not true or did not occur), and Action Justified (lawful, justified, and proper).

The Police Accountability Commission also found partial best practices:

- The City of San Diego's oversight body, when assessing Officer Involved Shootings (OIS), can only find whether the officer was in or out of policy; the oversight body cannot use other options available to them in non-officer involved shooting complaints.

Q2. The oversight body may add to the standard set of four individual-level findings options with additional findings regarding the police department to improve future conduct.

Identified in: Seattle, San Francisco, Chicago

- In Seattle, there are two additional findings that may be applied to a complaint: Training Referral, and Management Action. Training Referral directs the department to issue corrective action other than discipline, usually training and counseling. Management Action is used when the Office of Police Accountability recommends that the police department should revise its policy or training.
- In San Francisco, the oversight body may also apply findings of Policy Failure, Supervisory Failure, and/or Training Failure.
- In Chicago, investigators can assess policy issues regarding how the incident could have been avoided, training could be changed, policy deficiencies, and more.

Q3. The oversight body may dismiss cases in limited situations defined by law.

Identified in: San Francisco

- In San Francisco, cases can be dismissed if the action is outside of the jurisdiction (e.g. an officer from another city is alleged to have committed misconduct), or if the complainant chooses to withdraw the complaint.

The PAC also identified a counterexample as a practice to avoid, also in San Francisco:

- In San Francisco, cases can be dismissed if the officer is no longer employed or cannot be identified.

Q4. Findings are determined using the "Preponderance of the evidence" standard.

Identified in: San Diego (County), New York

- In San Diego County, the preponderance of the evidence standard is used for Board findings based on evidence at a hearing, or the investigative record.
- In New York, the preponderance of the evidence standard is used for Board findings.

Q5. The oversight body communicates the findings to the complainant.

Identified in: San Diego (City), San Diego (County), San Francisco

- In the City of San Diego, formal and informal investigations lead to letters written to the complainant.
- In San Francisco, once a case is closed a letter goes to the complainant with the outcome.
- In San Diego County, the disposition of the complaint must be shared with the complainant.

Q6. The oversight body may create panels to hear cases and determine violations of policy findings.

Identified in: San Diego (City), New York, San Diego County, Maryland (state)

- In San Diego City, a three-member panel of Board members reviews evidence, and asks if the investigation is thorough, fair and impartial; they may agree with investigator-proposed findings. If they do not agree, the case is heard by the full oversight board.
- In New York, a panel of three reviews the investigation. As the full oversight body is made up of members appointed by the Mayor, Council, and Police Commissioner, the three-member panel has one member appointed by each. Panels can make findings or refer the case to the whole Board.
- In San Diego County, Investigative Hearing panels of three members may hear cases, which are then sent to the full Board. However, since its inception, the full board has held hearings with a minimum of six of 11 members.

The Police Accountability Commission also identified counter-examples in Maryland, New York, and Washington DC, which it considers practices to avoid:

- In Maryland, Trial Boards consisting of three members deliberate on the facts to determine findings. The Boards consist of three members: one officer of equal rank to the one under investigation (selected by Police Chief), one civilian chosen by the Board, and an administrative law judge selected by the Chief County Administrator. The Trial Board is the final step before state law requires that a party be allowed to appeal to the local circuit court.
- In New York, cases can be forwarded to an administrative trial involving a signed statement from the complainant, both of which are viewed as practices to avoid due to unnecessary complexity.
- In Washington, DC, complaints that are accepted are heard by an administrative judge, hired on a case-by-case basis, who can hold additional hearings and gather information.

Q7. Information is distributed before the hearing.

Identified in: New York, San Diego County

- In San Diego County, the investigative hearing report is sent to the complainant and officer before the hearing.
- Also in San Diego County, public notice of hearings is given 10 days in advance of the hearing.

The Police Accountability Commission also identified partial best practices in San Diego County and New York:

- In New York, the officer gets notice of hearings and can request supporting documents (if there are no sustained findings) or receives documents automatically (if there are sustained findings). The PAC identifies this as a best practice only when applied equally to complainants and officers.
- Also in San Diego County, officers can access evidence unless prohibited by law. The PAC identifies this as a best practice when applied equally to complainants and officers.

Q8. The hearings process has accommodations to ensure accessibility for complainants.

Identified in: San Diego County

- In San Diego County, the complainant can appear with a representative and/or an attorney.
- Also in San Diego County, interpreters can be provided (with 7 days advance notice).

Q9. Hearings have consistent procedures.

Identified in: San Diego County

- In San Diego County, there are clearly defined hearings procedures:
 - the Board decides on findings by majority vote. Those who disagree can include their dissenting information along with the findings if they submit their opinion within five days.
 - the officer and complainant can make opening statements; the Chair/presiding member begins questions of witnesses; officers/representatives and staff can ask questions; officer or complainant can ask for panel to ask more questions; Officer and complainant can make closing statements. Complainant or officer can call witnesses, introduce exhibits, cross-examine, impeach witnesses, rebut; officers can be called for cross examination even if they did not testify.
 - Hearings can be held even if parties fail to appear.
 - hearsay is admissible; evidence is allowed if "responsible persons are accustomed" to using such information in "serious affairs."

The Police Accountability Commission also identified a counter-example in San Diego County which it considers a practice to avoid:

- San Diego County requires testimony under oath; it's not clear what happens if the oath is violated, but this poses a potential barrier.

Q10. The oversight body can take interim steps prior to findings being determined in specific cases.

Identified in: New York

- In New York, a case can be expedited if an officer is retiring or being promoted.
- Also in New York, the Board can recommend suspending an officer while administrative charges are pending.

R. Investigations

R1. The presumptive timeline to complete an investigation is 180 days or less.

Identified in: Washington DC, San Diego (City)

- In Washington, DC, investigations are required to be completed within 180 days, and most are done more quickly.

- In the City of San Diego, formal complaints have to be completed within 90 days, and informal complaints have to be completed in 30 days, or 60 if they lead to a formal investigation.

The Police Accountability Commission also identified several counter-examples, which the PAC considers practices to avoid due to the length of the timelines:

- In San Francisco, investigations must be completed in one year.
- In San Diego County, complaints must be investigated within one year.

R2. The timeline to complete an investigation may be extended.

Identified in: San Francisco, San Diego (County), New York

- In San Francisco, investigations can be extended beyond the presumptive timeline (1 year) if needed.
- In San Diego County, death investigations are both prioritized and allowed to extend beyond one year in length.
- In New York, if the complainant or their attorney wants to suspend investigation, the investigation can be halted and reopened later.

R3. Investigations must follow established guidelines.

Identified in: San Diego (City), New York, San Diego (County)

- In San Diego, investigations must follow federal and state constitutions and laws, city charter, board rules and regulations, collective bargaining agreement, and NACOLE ethics code.
 - In complaints involving Officer Involved Shootings, officers receive Lybarger/Garrity warnings that they are being compelled to testify for administrative investigation, and this interview cannot be used in a criminal proceeding.
- In New York, the Board determines investigative procedures to provide more guidance to staff operations.
- In San Diego County, investigations must be ethical, independent, thorough, timely, fair, and impartial.
 - Officers receive a Lybarger warning against self-incrimination.

R4. Investigators must gather evidence, including video evidence, and conduct and record interviews.

Identified in: San Diego (City), San Francisco, San Diego (County), New York

- In the City of San Diego, investigations include interviews of complainant, officer(s), and witness(es), as well as gathering evidence including photos, videos, and proof of injuries. Interviews with officers are all recorded; interviews with civilians are usually recorded, with documentation justifying when civilian interviews are not recorded. Civilian interviews can take place at locations other than the oversight body's office.
- In San Francisco, investigations include interviewing complainant, officer(s), witnesses, and gathering documents and videos.
- In San Diego County, investigations include interviews of witnesses, involved officers, gathering of reports, photos, and videos.
- In New York, investigators can review video and medical records, and conduct site visits. No "off the record" comments are allowed.

- In New York, investigators have access to roll calls, logs, assignments, and stop and frisk data from the police department.

The Police Accountability Commission also identified counter-examples it considers practices to avoid:

- In New York, while investigators are allowed to interview complainant, officer, and witnesses, as well as to record interviews, they have the latitude to choose not to do so. The PAC considers this ability to choose not to conduct or record interviews a practice to avoid.
- In San Diego County, interviews are not required to be recorded.

R5. The investigative process is structured to be accessible for all involved, and supportive of complainants navigating the process.

Identified in: San Diego (City), New York, San Diego (County)

- In the City of San Diego, civilians can have a support person who is not a witness to the incident. Officers are able to bring bargaining unit representatives.
- In New York, civilians can have up to two support people including counsel. Interviews are scheduled around civilians' work schedules, and can be rescheduled. Interviews include accommodations for people with disabilities, as well as interpreters if needed.
- In San Diego County, complainants may consult with an attorney and have a representative.

R6. Complainants have access to case information online.

Identified in: New York

- In New York, civilians can check the status of their case online.

The Police Accountability Commission also identified a counter-example, which it identifies as a practice to avoid:

- In San Francisco, complainants are only told when their case is opened and closed. The PAC believes this level of communication is too minimal.

T. Complaint Process, Timeline, and Intake

T1. The oversight system includes a broad definition of who can file complaints alleging police misconduct.

Identified in: Washington DC, San Diego (City), San Francisco, New York, San Diego (County)

- In Washington DC, anyone can make a complaint. Parents of minors can make a complaint on behalf of a child.
- In the City of San Diego, anyone who experiences or witnesses alleged misconduct can file a complaint.
 - Police officers with city police, or with other police agencies, can file complaints, which in San Diego are called "department initiated".
- In San Francisco, complaints can come from those experiencing the incident or witnesses.
- In New York, the complainant pool is inclusive regardless of age, immigration status, or language used. Incarcerated people can file complaints, and investigators routinely visit jails.

- In San Diego County, the right to file a complaint is described as “absolute and unconditional.” Anyone can file regardless of age, citizenship, residence, criminal record, or other characteristics, including incarceration status.

T2. The complaint process is inclusive and offers multiple methods, as well as accommodations, to ensure access.

Identified in: San Francisco, San Diego (County), San Francisco, New York, San Diego (City)

- In San Francisco, translation is offered into various languages to be inclusive of people other than English speakers.
- In San Diego County, filing is offered by mail or phone to be inclusive of people without internet access, as well as incarcerated people. Complaints can also be filed by email, online, or fax, and collect calls are accepted.
- In San Francisco, complaints can be submitted via phone, in person, or by mail, with the form available in six languages.
- In New York, complaints can be filed by phone, online, by 311, in person at the agency, and by mail.
- In San Diego, complaints can be filed online, by phone, email, mail, or in person at the review agency.

The Police Accountability Commission also identified counterexamples in New York and San Francisco, which the PAC considers practices to avoid due to the limited hours:

- In New York, phone complaints can only be filed between 8 AM-5 PM, which reduces access.
- In San Francisco, the agency office is open only from 8 AM-5 PM to take complaints.

T3. The oversight agency has provisions to accept anonymous complaints.

Identified in: New York

- In New York, the oversight body’s Chair and agency Executive Director have the discretion to accept anonymous complaints depending on nature and severity of allegations, availability of evidence, and workload.

The Police Accountability Commission also identified counter-examples it considers practices to avoid:

- In San Diego County, anonymous complaints are not accepted.
- In Los Angeles County, anonymous complaints are not referred for investigation.

T4. The allowable time after an incident in which a civilian can file a complaint is large enough to ensure access to community, and able to be extended.

Identified in: New York, Washington DC, San Diego (County), Denver, Oakland

- In New York, community members have 18 months after an incident to file a complaint, and the oversight body chair and executive director are able to extend this deadline.
- In San Diego County, complaints can be filed within 1 year of an incident, with time that a prospective complainant is incarcerated or incapacitated not counting towards this time.
- In Washington DC, the oversight agency Executive Director can extend the timeline if a complainant is in jail or fears retaliation.
- In Denver, there is no deadline to file complaints, although the oversight agency encourages filing within 60 days.

- In Oakland, there is no oversight agency deadline for complaint filing.

The Police Accountability Commission also identified a counter-example in Washington DC, which the PAC considers a practice to avoid:

- In Washington DC, complainants have 90 days to file a complaint unless extended as noted above.

T5. Complainants receive a record of their complaint, including a notice of completion of investigation.

Identified in: Chicago, San Diego (County)

- In Chicago, the oversight agency is required to promptly confirm receipt of complaint, provide notice to complainant if investigation cannot be completed in their required timeframe, and deliver final report to complainant.
- In San Diego County, the oversight body sends the complainant a summarized complaint, brochure, customer survey, medical release form, and confidentiality notice.

The Police Accountability Commission also identified a counter-example in San Diego County, which the PAC considers a practice to avoid:

- In San Diego County, complainants do not automatically receive staff recommendations of findings, the oversight board's meeting notes and decision, or have their original documents returned, but must submit a request to receive this. Additionally, they cannot receive investigative files.

T6. Incomplete or unverified complaints can be investigated if the oversight body determines investigation is warranted.

Identified in: Chicago

- To address the fact that many complaints were not being investigated due to the lack of verification, Chicago created an override system that allows the oversight agency to investigate complaint and recommend an exception to the head of Internal Affairs.

The Police Accountability Commission also identified a partial best practice in Los Angeles County:

- In Los Angeles County, anonymous complaints, though not investigated, are reviewed and maintained for purposes of monitoring patterns and systems of misconduct.

V. Mediation

V1. The oversight body has the authority to conduct voluntary mediation between community members and law enforcement.

Identified in: San Francisco, New York, Chicago

San Francisco, New York, and Chicago all have mediation programs run by their oversight bodies.

- In San Francisco, there is a mediation division of the oversight body, which has 130 volunteers and whose mission includes both improving relationships with community and improving policy.

The Police Accountability Commission also identified counter-examples in the City of San Diego and San Diego County, which the PAC considers practices to avoid:

- In the City of San Diego, the mediation program used to be run by the Police Department, which may have been a factor the program did not succeed and no longer exists.

- In San Diego County, there is no authority in the County Charter to conduct mediation.

V2. Mediation is offered in more minor cases, but not in more serious cases.

Identified in: San Francisco, New York, Chicago

- In San Francisco, only complaints for conduct unbecoming an officer, unwarranted action, and neglect of duty are eligible for mediation.
- In New York, complaints are eligible for mediation unless there is a civil lawsuit or criminal case, or if the complaint alleges physical injury or property damage.
- In Chicago, all complaints where (if sustained) discipline would be a suspension of 30 days or a lesser discipline are eligible for voluntary mediation.

V3. Mediation is accessible and open to affected individuals, in some cases to people other than complainants.

Identified in: New York

- In New York, mediation includes accommodation for people with disabilities, as well as interpreters as needed. To accommodate schedules, complainants can fail to show up twice before failure is declared.
- Also in New York, mediation is open to complainants, as well as to family members of victims even if complainants do not themselves participate.

V4. Mediation for minor cases, when successful, can be an alternative to investigation.

Identified in: San Francisco, New York

- In San Francisco, mediation (for minor cases in which mediation is allowable) is an alternative to investigation.
- In New York, successful mediation results in the complaint not being investigated. Either party to the mediation can determine that mediation is not successful, and ask for an investigation if mediation fails. Additionally, if either party rejects mediation, the case is sent to investigation.

W. Oversight Agency Community Engagement

W1. The oversight body conducts public education on the role of the oversight system and community members' rights.

Identified in: Washington DC, San Diego (City), San Francisco, New York

- In Washington DC, oversight agency public affairs staff does outreach to youth and community partners, including "know your rights" talks.
- In San Diego City, the oversight body must keep community informed of activities and receive input, including how to file a complaint without fear of retaliation.
- In San Francisco, the oversight body conducts "Know your rights" trainings.
- In New York, oversight agency outreach unit teaches about the oversight board, civilians' rights, de-escalation, and filing complaints. Outreach is conducted at schools, libraries, community organizations, neighborhood meetings, housing authority.

W2. The oversight body engages with the community on how to improve police practices and policy.

Identified in: Chicago, Los Angeles County

- In Chicago and in Los Angeles County, the oversight commission solicits community input and conducts engagement on use-of-force incidents and civil rights issues, and functions as a bridge between community and law enforcement.

W3. The oversight body conducts education on their activities for new law enforcement personnel and bargaining unit representatives.

Identified in: Washington DC

- In Washington DC, oversight agency public affairs staff conducts a training for new officers, as well as presentations for bargaining unit representatives.

X. Collective Bargaining

X1. The oversight agency has representation in the room during collective bargaining.

Identified in: Seattle

- In Seattle, a representative from the police commission has a seat at the bargaining table during negotiations with the police collective bargaining units.

Y. Access to Information

Y1. The oversight body has the ability to subpoena evidence.

Identified in: New York, Washington DC, San Diego (City), San Diego (County), Philadelphia, Oakland, Chicago

- In Washington DC, investigators have subpoena power.
- In the City of San Diego, the oversight board can subpoena witnesses and documents.
- In San Diego County, the oversight board can subpoena evidence and reports. The Charter allows the Board to require witness attendance.
- Philadelphia's Citizen Review Board has subpoena powers and access to all files and evidence, and is allowed to go to the crime scene and gather information independently.
- Oakland's oversight system has subpoena power.
- Chicago's oversight body has broad subpoena power.

The Police Accountability Commission also identified counter-examples in Washington DC and New York, which the PAC considers practices to avoid:

- In Washington DC, despite having subpoena power, investigators rarely use it. Additionally, they do not have access to police records and must request them from the police.
- In New York, the oversight body does not have direct access to body camera footage, although the manufacturer (AXON) allows for this access to be given to the oversight body.

Y2. The oversight body has the ability to compel officer participation and testimony.

Identified in: San Francisco, New York, Philadelphia

- In San Francisco, officers are issued a notice and order to appear before the oversight body; failure to appear is itself grounds for discipline.
- In New York, officers are notified of their constitutional right against self-incrimination, but are also notified that failure to answer questions can result in termination.
- In Philadelphia, officers are required to be present at hearings, proceedings, and participate in investigations if requested.

The Police Accountability Commission also partial best practices in San Diego County:

- In San Diego County, the Charter's text allows the oversight body to require officers to respond to written questions and appear at interviews and hearings, but staff state that 99% of officers refuse to give written statements. The PAC considers the Charter

authority to be a best practice, but the failure to receive statements from 99% of officers to be a practice to avoid.

The Police Accountability Commission also identified counter-examples in Washington DC and Maryland, which the PAC considers practices to avoid:

- In Washington DC, compelling police testimony requires a police order. Additionally, the oversight body must use the court notification system to request and schedule police appearances.
- In Maryland, the subject officer may not be compelled to testify in the Trial Board system.

Z. Continuous Improvement

Z1. The oversight body is required to self-evaluate and recommend changes to its structure on an ongoing basis and through regularly-scheduled self-evaluations.

Identified in: Los Angeles County, San Diego (City), Seattle

- In Los Angeles County, the oversight commission is required to conduct a self-evaluation every three years and recommend changes or continuations of practice, including of structure. This allows for the agency to evolve in response to changing circumstances.
 - Also in Los Angeles County, if the commission's charter is changed, it is required to report on that change after one year.
- In Seattle, the oversight agency conducts periodic complainant experience surveys, [reports on the results](#), and develops recommendations for improving the system based on the information gathered.

The Police Accountability Commission also partial best practices in the City of San Diego:

- In San Diego, the Mayor reviews procedures, surveys complainants and witnesses, reviews statistics and interviews staff. The Commission considers these activities to be best practices, and the fact that the responsibility rests with the Mayor rather than the oversight agency a practice to avoid.

The Police Accountability Commission agrees that the following items are practices to avoid from other jurisdictions:

1. Statute of limitations on completing investigation processes

Identified in: California (State Law), San Diego (County)

- According to sources in Oakland, there is a California state law that places a statute of limitations on completing complaint disciplinary processes within one year. If this deadline is not met, the complaint investigation and disciplinary process is terminated.
- In San Diego County, if investigations are not completed by the presumptive timeline of one year, they are closed.

2. Civilian board and internal affairs running parallel investigations

Identified in: Oakland

- The civilian board and the police internal affairs conduct investigations at the same time, then decide on discipline together. This process appears to be very ineffective.

3. Officers are provided with the names of investigators, complainants, and witnesses.

Identified in: New York

- During active investigations in New York by its oversight body, officers are provided with information including the names of the lead investigator, other investigators, complainants, and witnesses. Because they are also told the nature of the allegations and if they are a subject of the investigation or a witness, the disclosure of names creates a concern for retaliation against civilians.

4. The same agency that accepts complaints also accepts officer commendations.

Identified in: San Diego (City)

- In San Diego, community members can file commendations at the same civilian oversight agency that accepts and investigates complaints, as opposed to a system that has commendations filed directly with the police.

5. The process of filing a complaint about the police involves an interaction with the police.

Identified in: San Diego (City), Maryland, New York

- In the City of San Diego, complaints may be filed directly with the police. It is unknown if there are any provisions to ensure the police turn cases over to the civilian agency tasked with investigation, or to ensure that they do not discourage complaints.
- Also in the City of San Diego, after a complaint is filed the officer's supervisor calls the complainant to "explain policy", and only if the complainant is not satisfied with the explanation does the complaint move to an investigation. This both prevents an investigation from potentially revealing other issues worth addressing beyond the initial complaint, and forces an interaction with the police for the complainant.
- In Maryland, civilians may file complaints at the law enforcement agency (although they may also file them at the civilian oversight agency).
- In New York, complaints may be filed at police stations.

6. Complaints must be signed under penalty of perjury.

Identified in: San Diego (County), New York

- In San Diego County, complaints have to be written and signed under penalty of perjury, creating a hurdle for complainants. Although San Diego County has not ever prosecuted

someone for allegedly filing a false report, the potential penalty of perjury exists nonetheless.

- In New York, if the Board refers a case to a hearing, the complainant has to sign a statement; this could be a barrier to participation.

Appendix E3: PAC Areas of Agreement on Proposals to Consider, or to Avoid, from Subject Matter Experts

**City of Portland
Police Accountability Commission
Areas of Agreement on Proposals to Consider,
and to Avoid, from Subject Matter Experts**

Proposals to Consider

The Police Accountability Commission, having evaluated proposals given to the Commission or the City from experts and academics, agrees that the following items are proposals worth considering for implementation in Portland.

A. Structure

A1. The oversight body should have the ability to proactively provide structural oversight, not solely react to misconduct by individual officers.

Proposed by: National Association for Civilian Oversight of Law Enforcement

- [NACOLE](#) proposes that oversight bodies should not solely be reactive entities like “civilian review boards”. The term “Civilian Review Board” indicates that the only power an Oversight Body has is to “review” individual complaints. These structures often cannot engage in work focused on systemic problems and development of structural solutions. NACOLE’s examples of proactivity include independent analysis of police data related to Use of Force, Stop-and-Frisk, or other procedures; financial auditing and recommendations; review of policies, independent investigations, and proposals to address systemic issues.

A2. The oversight body should be independent of the police department.

Proposed by: NACOLE

- Oversight bodies should be independent of the police department in all ways. NACOLE proposes that they have independent authority, be independent from political process, and not keep secrets for law enforcement. NACOLE specifically suggests that the police department should not be involved in member selection in any way.

A3. The oversight body should be the final decision-making authority on disciplinary matters, adjudicating use of force, recruiting practices, and policy development.

Proposed by: NACOLE

- NACOLE proposes these powers as part of ensuring that the oversight body is sufficiently empowered to provide civilian oversight of law enforcement. State laws already afford extraordinary protections to law enforcement officers and conceal extensive information regarding their work from the public. Civilian oversight bodies must be given real power or else they risk being performative political statements with no actual “teeth” or power.

A4. The oversight body should be individualized to the local jurisdiction, with a structure and rules meeting their unique needs.

Proposed by: NACOLE

- NACOLE proposes individualized civilian oversight, for each locality based on specific needs of the community. This requires broad (not prescriptive) enabling legislation for each municipality to establish a structure that meets their unique needs.

B. Reporting

B1. The oversight body should present annual reports to City Council each year.

Proposed by: Eileen Luna Firebaugh

- Eileen Luna Firebaugh proposes that annual reports from the oversight body be presented to City Council. Public reporting on oversight keeps elected leaders and community members informed on an ongoing basis.

B2. The statistical definition of “sustain rate” in oversight agency reports should be sustained complaints out of all complaints received, not just those investigated.

Proposed by: Eileen Luna Firebaugh

- Portland calculated its sustain rate, at the time of Eileen Luna Firebaugh’s 2008 IPR assessment, based on the number of *investigated* cases, which makes the percentage seem higher by removing cases that were never investigated. The sustain rate calculation should show sustained complaints out of *all complaints received*, including those never referred to another agency, and be presented alongside the rates by which cases are dismissed or declined; referred to Internal Affairs; and those received by Internal Affairs regardless of the disposition decision made by IA.

C. Access to Information

C1. The oversight body should have direct access to police files.

Proposed By: Washington DC Oversight System Staff Support, NACOLE

- Washington DC’s oversight system does not have direct access to police files, and receives them only upon request. Staff from that agency ([Police Complaints Board](#)) suggests that Portland’s oversight board should get direct access to police files.
- NACOLE proposes empowered civilian oversight systems which can subpoena duces tecum (or compel documents). They also propose the repeal of laws at the city or state level that prevent public access to and publication of police records on discipline and other matters of public concern.

C2. The oversight body should be able to compel testimony from police officers, as a condition of continued employment.

Proposed By: Eileen Luna Firebaugh, NACOLE

- In her 2008 IPR assessment, Eileen Luna Firebaugh suggested that PPB members should be ordered by City Council to testify as a condition of employment. This is one possible mechanism to ensure the power to compel testimony is vested in the oversight body.
- NACOLE proposes empowered civilian oversight systems which can subpoena witnesses, and compel testimony from police officers.

D. Staff and Budget

D1. The oversight body should have support from paid staff across the range of duties the oversight body is expected to perform.

Proposed By: NACOLE, City of San Diego oversight body staff

- NACOLE proposes that staff be hired by localities, with statewide and/or local permanent financial structures for staff.

- City of San Diego oversight staff ([Commission on Police Practices](#)), when contacted regarding current practices, suggested that they hoped to create positions in analysis, communications, and personnel management. They also suggested these as practices for Portland, as these functions may be essential to the new oversight system in Portland.

D2. The oversight body should have permanent guarantees of sufficient funding.

Proposed By: NACOLE

- NACOLE proposes that as a prerequisite for independence, oversight bodies must be permanently secured and supported financially. Financial and administrative support (as requested by the individual oversight body) by municipalities is critical to the success of police oversight.

D3. The oversight agency should include as a preference in staff recruitment that candidates have experience working with community.

Proposed By: Oakland oversight body staff

- The interim director of the Oakland Community Police Review Agency suggested that candidates with public defense or civil rights backgrounds might be better suited to lead oversight agencies because it is important for them to know how to connect to the community. This would be a desired qualification alongside investigative, policy, and/or management skills.

E. Continual Improvement

E1. The oversight system should be able to be improved by City Council, or independently, over time.

Proposed By: NACOLE, Eileen Luna Firebaugh

- NACOLE defines as a principle the idea that oversight is an iterative process that is fluid and changes over time, and learns from its experiences. The oversight system should be built to work within existing legal structures that guarantee overwhelming protection to law enforcement officers, including statutory procedural guarantees when faced with discipline or firing, qualified immunity and more. It should also be able to change and grow as these legal structures change and hurdles to meaningful civilian oversight from those structures are reduced.
- Eileen Luna Firebaugh, in her 2008 IPR assessment, proposes that the City Council use its authority to make changes to improve the system if it is not meeting the community's needs. Her assessment indicates that the City was unwilling to make any changes to IPR's structures for the first 8-9 years of IPR's existence.

F. Findings and Standard of Review

F1. Use the standard four options for "findings" after investigation for clarity, and allow the addition of other findings for systemic solutions.

Proposed By: Eileen Luna Firebaugh

- Eileen Luna Firebaugh, in her 2008 IPR assessment, proposed that the City of Portland adopt the standard four findings used by most other jurisdictions, using language that is clear to the public. These findings are Sustained, Exonerated, Insufficient Evidence, and Unfounded.

- In the same assessment, Firebaugh recommended creating three additional options to add on to the option selected from the four standard findings. These additional options were: Policy Failure, Supervisory Failure, and Training Failure. Having findings which are not specific to the officer's behavior can provide the possibility of systemic change.

F2. The oversight body should use the “preponderance of the evidence” standard, not the “reasonable person” standard.

Proposed By: Eileen Luna Firebaugh

- Eileen Luna Firebaugh, in her 2008 IPR assessment, proposed that the City of Portland change the standard of review. Preponderance of the evidence seems to be standard in most oversight decision making. The “reasonable person” standard is too difficult to understand, and the more commonly used “preponderance of the evidence” is easier.

G. Mediation

G1. Mediation should be offered in more minor cases, but not in more serious cases.

Proposed By: Eileen Luna Firebaugh, Mental Health Alliance

- Eileen Luna Firebaugh, in her 2008 IPR assessment, proposed that mediation be offered on all discourtesy and procedural complaints, but not for use of force, legal violations such as improper stop, detention, search, or arrest, or for officers with a pattern of misconduct.
- The Mental Health Alliance, in briefing the full Police Accountability Commission, also supported mediation, cautioning that complainants should not be pushed to accept mediation as a way of avoiding investigation of the complaint.\

H. Board Jurisdiction and Case Authority

H1. Some categories of cases should be defined for automatic investigation by the oversight body.

Proposed By: Oakland oversight body support staff

- Acting Community Police Review Agency Director Aaron Zisser suggested that Portland adopt a practice under consideration in Oakland: designating cases related to use of force, in-custody deaths, profiling protected classes, untruthfulness, and First Amendment violations, as categories for automatic investigation by the civilian review agency. This suggestion would apply regardless of the potential role of Internal Affairs. Zisser suggested that this approach would be a good way to ensure that serious cases were always investigated by the civilian agency.

I. Transparency and Public Access

I1. All meetings and reports should be public, and all operations should be transparent.

Proposed By: NACOLE, Eileen Luna Firebaugh

- NACOLE defines civilian oversight of law enforcement as a public-facing process, and proposes that all efforts should be made by the locality as well as the state legislature to ensure that policing matters are able to be discussed in public settings and all reports are made public.
- Eileen Luna Firebaugh, in her 2008 assessment of IPR, promotes transparency as well, saying that “transparency is about ‘the public’s right to know the public’s business’”.

J. Oversight Body Membership Selection

J1. Oversight body selection criteria should reflect those most affected by policing.

Proposed By: NACOLE

- NACOLE proposes community-driven civilian oversight, in which localities are both empowered and encouraged to create membership criteria for the oversight of law enforcement. These criteria should be based on the history and patterns of local policing to ensure that communities most impacted by policing are represented. Oversight should be conducted – in part or in whole – by the people most impacted by policing in their communities.

Proposals for City, State, and Federal Consideration

The Police Accountability Commission, having evaluated proposals given to the Commission or the City from subject matter experts, agrees that the following items are proposals to consider. The Police Accountability Commission's mandate from City Council does not include addressing these items. Nonetheless, these proposals support the community police oversight board's ability to function.

1. Eliminate Qualified Immunity for police officers

Proposed by: [National Police Accountability Project](#)

- Qualified immunity is a court doctrine that prevents many lawsuits against police officers unless the officer is found to have violated "clearly established statutory or constitutional rights of which a reasonable person would have known." When applied, qualified immunity results in cases being thrown out before being heard, which prevents the community member filing the lawsuit from being heard or presenting evidence.

2. Eliminate Absolute Immunity for prosecutors

Proposed by: National Police Accountability Project

- NPAP states that prosecutors are protected by law from liability if they falsify evidence, coerce witnesses into guilty pleas, soliciting and knowingly sponsor perjured testimony, withholding exculpatory evidence (evidence of innocence), introducing evidence that has been illegally seized, initiating a prosecution in bad faith. They recommend the elimination of this prosecutorial immunity.

3. Change Police Employer Liability

Proposed by: National Police Accountability Project

- NPAP states that a municipality can only be held liable if the actions of their "official policy" caused a constitutional violation. This avoids police departments and municipalities being held liable for many actions. If their actions were not in keeping with their "official policy" the officer may be held liable but not the municipality- which has deeper pockets and is able to provide more compensation for victims of violence/abuse of power. In addition, if a police officer for example has a long history of abuse and the police department was aware of this, this can be used to hold them liable. But police records are most often kept private and not shared so the public is kept unaware of this history or have no access to it, so they can't use it to prove the pattern of misbehavior.

4. Eliminate Civil Asset Forfeiture

Proposed by: National Police Accountability Project

- Forfeiture of civil assets can be done before a person is found guilty of a crime- all that needs to be said is that the person is a suspect of a crime, and the department can seize all of your property in the name of "their investigation". This has caused a major issue especially for communities with economic barriers and as a result communities of color, who are disproportionately affected. It is one of the many ways that the system perpetuates poverty and systemic oppression and disadvantage.

5. Sue federal officers for constitutional violations

Proposed by: National Police Accountability Project

- The National Police Accountability Project recommends that jurisdictions in which federal law enforcement (FBI, ATF, DHS, etc.) operates sue federal officers for their constitutional violations.

Proposals to Avoid

The Police Accountability Commission, having evaluated proposals given to the Commission or the City from subject matter experts, agrees that the following items are proposals to avoid for implementation in Portland.

1. The community oversight agency should limit community involvement where it “interferes with the ability to get work done.”

Proposed By: San Diego (City) oversight agency staff

- In research on the City of San Diego’s practices, PAC members heard concerns from an oversight agency staff member that community member involvement, including by those who helped put the system on the ballot, interfered with the ability to get work done. An example was having to go start a search for a staff position a second time. The PAC believes that community members should have a voice in how things move forward, for a community-driven oversight system.

Appendix E4: PAC Areas of Agreement on Access to Information

City of Portland Police Accountability Commission Areas of Agreement on Access to Information

Definitions

Garrrity warning	An advisement given to a member who is the subject of an internal administrative investigation or review. A Garrrity warning apprises the member that they are required to answer questions asked by investigators and are subject to discipline, up to and including termination, for failing or refusing to answer the questions.
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The Police Accountability Commission is tasked with developing the functions of the new police accountability system in Portland, including the new community police oversight board. As part of ensuring the oversight board and staff shall be able to complete their other duties, the commission was also tasked with ensuring the oversight board and staff have sufficient access to information to complete their duties.

The Police Accountability Commission has developed the following Areas of Agreement on Access to Information. These agreements are not formal recommendations of the Police Accountability Commission, but will be built upon by the commission to create City Code recommendations for Council.

The oversight board shall have the authority to obtain information to administratively respond to allegations of misconduct, and conduct structural oversight effectively.

City Charter 2-10¹¹⁷ requires the oversight board to meet certain obligations it has to the City and the residents of Portland, including receiving complaints of officer misconduct and responding to them as well as structural oversight such as policy and directive recommendations. To effectively fulfil these obligations, the board must have sufficient information to make decisions.

A. Compelling Testimony

¹¹⁷ [Portland City Charter §2-10](#) states that the board has:

- “the power to the full extent by law [...] to subpoena and compel documents” (Section 2-1007a)
- “the authority and ability to gather and compel all evidence” (Section 2-1007c)
- “the authority and ability [...] to access all police records to the extent allowed by federal and state law” (Section 2-1007c)
- “the ability to compel statements from witnesses including officers” (Section 2-1007c)
- “the power to compel sworn members of the Portland Police Bureau, and their supervisors to participate in investigations and to completely and truthfully answer all questions. Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.” (Section 2-1007d)
- “The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board’s independent judgment.” (Section 2-1006)

A1. The Board shall have the authority and ability to compel all evidence during the course of an investigation. The Board shall have the power to compel sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to completely and truthfully answer all questions. The Board is authorized to direct Bureau members to cooperate with administrative investigations.¹¹⁸

- **If necessary, the Bureau of Human Resources shall act on the Board's behalf to compel the officer.**

The Charter (Section 2-1006) requires the City government to support the oversight board's ability to access enough information to exercise independent judgment.¹¹⁹

A2. A Bureau employee whose testimony is requested or compelled shall attend investigative interviews conducted by the Board, cooperate with and answer questions asked by the investigators, truthfully, during an administrative investigation. Officers who are compelled to testify shall receive a Garrity warning prior to [their/compelled] testimony, and provide a signature confirming they have received the warning.¹²⁰

- If an employee refuses to attend an investigative interview after being notified to do so, or refuses to answer a question or questions asked during an investigative interview, the Police Chief or appropriate City authority shall direct the employee to attend the interview and answer the question or questions asked.¹²¹

A3. Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.¹²²

A4. As a separate source of information for the Board's administrative investigations, the Board shall have access to Bureau members' statements from any criminal investigation, as well as relevant police reports.

A5. Compelled or requested testimony may be done in an in-person or in a virtual setting when the Board deems it appropriate.

A6. In addition to investigator interviews, compelled testimony of sworn officers may also be done in a hearing of the Board, in which the community members on the board will have direct access to the officer.

- If necessary, the Bureau of Human Resources shall act on the Board's behalf to compel the officer.

A7. Prior to being interviewed, a Bureau employee whose testimony is requested or compelled will:¹²³

¹¹⁸ See [Portland City Code §3.21.210](#), language would be amended to reflect the change from IPR to the new oversight board.

¹¹⁹ [Portland City Charter §2-1006](#) "The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment."

¹²⁰ See [Portland City Code §3.21.220-A](#), language would be amended to reflect the change from IPT to the new oversight board

¹²¹ See [Portland City Code §3.21.220-A](#), language would be amended to reflect the change from IPR to the new oversight board

¹²² [Portland City Charter §2-1007\(d\)](#)

¹²³ See [Portland City Code §3.21.220-C](#) for similar language regarding interviews of Bureau employees; language would be amended to reflect the change from IPR to the new oversight system

- a. Be notified of the time, date, and location of the interview and that this is an administrative investigation.
- b. Be informed of the right to bring a collective bargaining unit representative and other support persons as allowed to observe, but not take part in, the interview.
- c. Be read a statement, that the employee is directed to attend the interview, cooperate during the interview and answer all questions fully and truthfully.
 - if the employee fails to attend the interview, cooperate during the interview or answer any questions fully and truthfully, the employee will be subject to discipline or discharge.
- d. Receive a Garrity warning prior to compelled testimony, and provide a signature confirming they have received the warning.
- e. Be provided with any other information or protections required by any applicable collective bargaining agreement.¹²⁴

A8. The Bureau employee shall comply with a request for compelled testimony within 48 hours.¹²⁵

A9. In use of deadly force and death in custody cases, administrative investigators shall have the ability to compel testimony once either the criminal investigators have completed their interview, or the officer has postponed their interview with criminal investigators.

B. Subpoena Power

B1. The oversight board shall have the authority to issue subpoenas for the purpose of compelling *witness* testimony to fully and thoroughly investigate a complaint or conduct a review.¹²⁶

B2. The board shall have the authority to issue subpoenas for the testimony and the production of records, including and not limited to *video recordings*, audio, reports and *all* evidence pertinent to an investigation.^{127,128}

B3. The oversight board, with the assistance of legal counsel, shall have the authority to subpoena witnesses, administer oaths and require the production of evidence. Through legal counsel, the board shall apply to Multnomah County Courthouse (or to the appropriate court)

¹²⁴ See [PPA CBA, Article 61](#) and [PPCOA CBA, Article 29](#).

¹²⁵ These policies currently exist under [Portland Police Bureau Directive 1010.10](#) ("Deadly Force and In-Custody Death"):

"2.2.5.1. The PSD Captain or designee shall ensure that the involved member(s) provides a compelled statement as soon as practicable, but no later than within 48 hours of the event, unless the member is physically incapacitated and unable to provide a statement.

2.2.5.2.1. If an involved member provides a voluntary statement to the Homicide Detective within 48 hours of the event, the PSD Captain shall determine when any further administrative interviews will be scheduled.

2.2.5.3.1. The PSD Captain or designee shall schedule an interview with the involved member as soon as practicable, but no later than within 48 hours of the event, unless the member is physically incapacitated and unable to provide a statement."

This agreement is to expand the scope of these requirements within City Code to all oversight board requests for compelled testimony.

¹²⁶ [Portland City Code §Code 3.21.210](#), language would be amended to reflect the change from IPR to the oversight board

¹²⁷ Portland City Charter Section 2-1007a

¹²⁸ Currently practiced in San Francisco,; see [San Francisco Administrative Code §96.6](#)

for the enforcement of a subpoena or to impose the penalties for failure to obey a subpoena or order.¹²⁹

B4. In general, initial efforts to compel officer testimony shall be made through the administrative process. At its discretion, the oversight board can subpoena a sworn Bureau member.

B5. The oversight board shall maintain confidentiality where required to do so, and support transparency where allowable. All members of the oversight board shall not disclose confidential or legally privileged information or records and shall be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure.¹³⁰

B6. Any *person* who fails to comply with a subpoena may be subject to contempt proceedings as prescribed by State law; provided that such persons shall not be required to answer any question or act in violation of rights under the constitutions of the State or of the United States.¹³¹

The Board may take into consideration the repercussions of a contempt finding after a person refuses to cooperate.

C. Access to Police Records

C1. The oversight board shall have direct access to all bureau information and records, including confidential and legally privileged information so long as the Board ensures that privilege is not waived as to third parties.¹³²

Currently, IPR has a protected right, under City Code, to access police records. The oversight board should expand that right to make it clear that it is a right to direct access.

This would include the amendment of City Code 3.21.070J in a manner similar to:

“Notwithstanding any other provision of City law, the Board shall have **direct** access to and be authorized to examine and copy, without payment of a fee, any bureau information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, and police databases, subject to any applicable state or federal laws.”

C2. In performing their duties, the Board shall have access to Bureau data and records, including but not limited to, raw data, tabulated summary statistics, other source materials, and any other format source necessary for the board to perform its duties. The oversight board shall also have direct access to original database sources as permitted by state and federal law.¹³³

C3. For the improvement of both the efficiency of the oversight board as well as the police bureau, direct access should be available to the Board and its staff in situations where the Bureau is the custodian of record. This includes, but is not limited to:

¹²⁹ Currently practiced in Cambridge, MA; [Cambridge Municipal Code 2.74.040.o](#)

¹³⁰ [Portland City Code §3.21.070\(j\)](#), language would be amended to reflect the change from IPR to the oversight board.

¹³¹ [Portland City Code §3.21.210](#).

¹³² [Portland City Code §3.21.070](#), language would be amended to reflect the change from IPR to the new oversight system.

¹³³ [Portland City Code §3.21.070\(b\)](#), language would be amended to reflect the change from IPR to the new oversight system.

- a. Police Reports
- b. Digital Information Management System (DIMS)
- c. Versaterm Computer-Aided Dispatch (VCAD), or other, future CAD systems
- d. After Action Reports
- e. Training Records
- f. Global Positioning System (GPS) data
- g. Discipline and complaint history of individual officers

C4. To the extent allowable under state and federal law, the oversight board shall have direct access to all relevant database networks to which the Bureau subscribes. This includes, but is not limited to:

- a. Regional Justice Information System (RegJIN)
- b. Criminal Justice Information Systems (CJIS)

C5. The Bureau shall prioritize the oversight board's requests over pending public records requests and should respond within five (5) business days with either records or a notice of why records have not been sent.

- In the event that requests for records or other evidence are not complied with, the oversight board may issue a subpoena.¹³⁴

C6. For records accessed within the Portland Police Bureau system, the oversight board shall not be required to submit a fee.¹³⁵

C7. The Board shall allot adequate funding from the Board's budget, using the best estimate available, to fully pay for any fees the oversight board incurs when accessing information from a non-PPB source.

C8. The oversight board shall establish a standard by which the PPB reports data to the board, including required aggregated information (e.g. use of force cases) and frequency (e.g. monthly, quarterly, annually).¹³⁶

D. Data

D1. If the Board requests medical information of any individual in an investigation, the requested information shall be limited to the scope of the complaint. All requests shall comply with federal HIPAA laws, as well as state laws.

D2. The Board shall be provided with means of safely securing both physical and electronic information during its consideration of complaints. Electronic access to sensitive materials should have a security or encryption that abides by city, state, and federal standards. The members of the Board will abide by the applicable retention schedule set for sensitive information acquired throughout the course of an investigation, as well as after an investigation has been completed.

D3. Information given to the Board: The Board will become the custodian of information given directly to the oversight board by external sources (e.g. volunteered testimony,

¹³⁴ [Portland City Charter Section 2-1007\(a\)](#)

¹³⁵ [Portland City Code §3.21.070\(i\)](#); language would be amended to reflect the change from IPR to the oversight board.

¹³⁶ Adapted from [Philadelphia, PA Municipal Code §21-1212 \(5\)](#), and [Berkeley, CA Municipal Code Article XVIII, §125, 24](#).

electronic information), and will set their own retention schedules for safe disposal of the information based on state and city laws.

D4. Other information: Information that the Board acquires from external media sources (uploaded videos, images, social media) that has not discretely been given by the owner will be treated as public records with the understanding that the Board does not own or have the ability to grant further publication rights to media not generated by the city or obtained through the above-mentioned process. Such information will be verified for authenticity.

E. Body Camera Footage

The Police Accountability Commission is aware that the City has not currently implemented police body cameras, but anticipates that the City will have fully implemented or be close to fully implementing police body cameras by the time the oversight board begins its work.

E1. The oversight board shall have automatic access to all body camera video footage, without having to make a special request for it.

E2. The oversight board shall have immediate access to all body camera footage.

The Charter (Section 2-1006) requires the City government to support the oversight board's ability to access enough information to exercise independent judgment.¹³⁷

E3. All body camera footage of every event that comes to the oversight board for review shall be available in full without any editing or tampering and will be verified for authenticity.

The Police Accountability Commission, having evaluated body camera structures and proposals, agrees that the following items are necessary to ensure the community police oversight board's success. The Police Accountability Commission's mandate from City Council does not include addressing these items. Nonetheless, these proposals support the oversight board's ability to fulfil its mandate.

1. **The oversight board should be the owners of the body camera footage, and ensure that the Bureau has access to view footage.** This will limit misuse, and presumably focus the body camera program on its main intent: police accountability. There should not be a presumed use for prosecuting community members or conducting surveillance.
2. If the oversight board is unable to be the owner of the body camera footage, at a minimum the board should be co-owners with the bureau, and digital access to the body camera footage will always be turned on for the board and its staff.
3. The retention schedule for body camera footage should be at least as long as the timeline to make and resolve a complaint and resolve any civil action.

The new body camera system for the City of Portland should ensure that if a possible complainant has a certain amount of time to file and resolve a complaint (including any appeals or civil actions), that relevant body camera footage is maintained by the City for at least the same length of time, in instances that could reasonably be interpreted to include potential misconduct. This ensures that investigations always have access to relevant body camera footage.

4. **The police officers involved in the incident should write their report or have given a full and thorough statement about the incident or the event before viewing the video footage.**

¹³⁷ [Portland City Charter §2-1006](#): "The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment."

The PAC agrees that having multiple independent sources of information for consideration during evaluation of misconduct complaints will help the oversight board more effectively investigate and make findings on those complaints. This would ensure the report is the most accurate representation of the officers' memory of the events being recorded.¹³⁸

¹³⁸ This policy was cited as a best practice by the US Department of Justice for Portland: <https://www.documentcloud.org/documents/21108416-letter-re-bwc-policy-principles-11-15-21-1>. Also identified by the PAC in Cincinnati, OH; Las Vegas, NV; Parker, CO; and Washington, DC. Also, see *Graham v. Connor*.

Appendix E5: PAC Areas of Agreement on Officer Accountability

City of Portland Police Accountability Commission Areas of Agreement on Officer Accountability

The Police Accountability Commission was asked to complete the following tasks which were assigned to the Sub-Committee on Officer Accountability:

- Describe case handling and investigative processes (“Complaint, Investigation, Determination, Discipline, etc. processes”), including workflow description.
- Compliance with State laws
- Consideration of the existing procedure and the addition of the Community Police Oversight Board.

The Portland City Charter indicates the new Board will be made up of community members who are authorized to hire the Board's director, ensure investigations are conducted into misconduct allegations, and to discipline officers who have violated policy.¹³⁹

In accordance with Portland Police Association Contract Section 62.7 and US Department of Justice Section VIII and Paragraph 195c, the Police Accountability Commission has designed the following outline of a system, from the time an incident occurs to the time discipline, if any, is imposed.¹⁴⁰

In designing this outline, we have kept in mind the Values of the PAC:¹⁴¹

1. Equity and Inclusion
2. Anti-Racism
3. Harm Reduction

¹³⁹ [Portland City Charter §2-10.](#)

¹⁴⁰ PPA Contract 62.7:

“62.7 The parties acknowledge that when the City is prepared to present the terms that will commence the Portland Community Police Oversight Board, the City will provide notice to the Association prior to implementation. The City and the Association will comply with any bargaining obligations that may exist under the PECBA consistent with the procedures of ORS 243.698.”

USDOJ Section VIII:

“PPB and the City shall ensure that all complaints regarding officer conduct are fairly addressed; that all investigative findings are supported by a preponderance of the evidence and documents in writing; that officers and complainants receive a fair and expeditious resolution of complaints; and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair and consistent. The City and PPB seek to retain and strengthen the citizen and civilian employee input mechanisms that already exist in the PPB's misconduct investigations by retaining and enhancing IPR and CRC as provided in this Agreement.”

Paragraph 195c:

“The City will comply with any collective bargaining obligations it may have related to the Oversight Board, which the City agrees to fulfill expeditiously and in compliance with its obligation to bargain in good faith.”

¹⁴¹ [Police Accountability Commission Values and Goals \(03-24-2022\)](#)

4. Transparency and Trustworthiness
5. Community-Centered
6. Effectiveness

Definitions

Case	An incident or situation involving potential misconduct. Cases are either complaints, which are filed by a community member or a PPB officer, or are incidents which the Board is required by law to investigate.
Complainant	"Complainant" may mean a person who has filed a complaint about misconduct, or has been the recipient of alleged misconduct even if they did not file a complaint.
Preponderance of the Evidence	The "Preponderance of the evidence" standard means that a majority of evidence supports a finding on an allegation (applies to In Policy, Out of Policy and Unfounded findings).
Effective/Constructive Custody	Effective/Constructive Custody refers to the custody of a person who is not under direct physical control but whose freedom is controlled by legal authority.
Responsibility Unit Manager	A commanding officer or manager of a Bureau division, unit or precinct. ¹⁴²
Lybarger/Garrity Notice	An advisement given to a member who is the subject of an internal administrative investigation or review. A Garrity warning apprises the member that they are required to answer questions asked by investigators and are subject to discipline, up to and including termination, for failing or refusing to answer the questions.
Just Cause	a cause reasonably related to the public safety officer's ability to perform required work. The term includes a willful violation of reasonable work rules, regulations or written policies.

¹⁴² [Portland City Code §3.21.020R](#)

A. Intake of Complaints

A1. Complaint Navigators and Interview Process¹⁴³

- A. The new Board will provide an complaint navigator (or "advocate") for each complainant.¹⁴⁴
 - i. To the extent possible, the complaint navigator will be appropriately culturally attuned to the complainant's needs.
- B. Civilians can additionally have two support people including an attorney for a total of up to three support people.^{145, 146} However, the support person cannot be a witness to the incident.
 - i. If the complainant is an officer, who already has the automatic ability to have a bargaining unit representative and an attorney, they can also bring a peer officer or community member of their choosing (who is not a witness to the incident). This means they may also have as many as three support people.
 - ii. If the officer is not a part of the bargaining unit, they will be assigned an complaint navigator from the pool for community members. The officer can decline this option.
- C. Interviews will be scheduled around civilians' work schedules and can be rescheduled if need be.¹⁴⁷
 - i. Interviews will include accommodations for people with disabilities, and interpreters if needed.

A2. Timelines to File

- A. The timeline to file a complaint shall be 12 months after the incident.¹⁴⁸
 - i. The timeline can be extended by the Board chair and/or Director for good cause.¹⁴⁹

¹⁴³ Includes references to these documents, among others:

[PAC Areas of Agreement on Best Practices, and Practices to Avoid, from Other Jurisdictions B, R5, T](#)
[PAC Areas of Agreement on Proposals to Consider, and to Avoid, from Subject Matter Experts, section H](#)
[PAC Areas of Agreement on Barriers to Police Accountability, and Best Practices, in Portland](#); "Accessibility & Equity"

PAC Areas of Agreement on Barriers and Best Practices, "Accessibility & Equity"

¹⁴⁴ [From PAC Areas of Agreement on Barriers to Police Accountability, and Best Practices, in Portland](#) "Lack of Transparency" section: "Complainants are not offered access to an advocate during the intake process."

¹⁴⁵ Adapted from San Diego County [Citizens' Law Enforcement Review Board Rules and Regulations](#), section 14.2; "Each party...shall have the right to have a representative of his or her choice present at all times during his or her own fact-finding interviews or Investigative Hearings..."

¹⁴⁶ Adapted from [New York City Civilian Complaint Review Board, Rules of the City of New York, Title 38A, Ch 1, Subchapter C, §1-24\(c\)](#): "All persons interviewed may be accompanied by up to two representatives, including counsel."

¹⁴⁷ [Adapted From New York Civilian Complaint Review Board, Rules of the City of New York, Title 38A, Chapter 1, Sub-chapter C, §1-24\(e\)](#)

¹⁴⁸ Adapted from County of San Diego [Citizens' Law Enforcement Review Board Rules and Regulations §5.4](#): "All complaints shall be received within one year after the date of the incident..."

¹⁴⁹ Adapted from [Washington DC Code §5-1107\(d\)](#)

- ii. The time limit on filing a complaint will be extended until a civil case has concluded and/or for the term of the involved community member's incarceration, to a maximum of five years.¹⁵⁰
- iii. Good cause for extending the timeline may include (but is not limited to) fear of retaliation, or if an officer who was not previously identified has their identity become known after the 12-month deadline.¹⁵¹

A3. Who can file

- A. Anyone who experiences or witnesses alleged misconduct can file a complaint. The right to file a complaint is absolute and unconditional.¹⁵²
 - i. Parents and guardians should be able to file complaints on behalf of minors up to the age of 18.¹⁵³ Youth can file complaints on their own beginning at age 15.
 - ii. The complainant pool is inclusive regardless of age, immigration status, residence, criminal record, or language used. Incarcerated people can file complaints.¹⁵⁴
 - iii. Anonymous complaints will be accepted, and will be prioritized depending on the nature and severity of allegations and, for more minor complaints, the Board's workload.¹⁵⁵
 - iv. Complaints involving any community members can be filed by third parties - individuals or organizations.
- B. Police officers with city police, or with other agencies, can file complaints against Portland police officers.¹⁵⁶
- C. No member of the community or the Police Bureau shall face retaliation, intimidation, coercion, or any adverse action for filing a complaint, reporting misconduct, or cooperating with a misconduct investigation.¹⁵⁷

A4. Ways to File Complaints

- A. The complaint process is inclusive and offers multiple methods and accommodations to ensure access.¹⁵⁸
 - i. Filing will be offered in person or by mail, phone, email, online, texting, or by other common technological means of communication. Collect calls will be accepted.¹⁵⁹

¹⁵⁰ Adapted from [County of San Diego Citizens' Law Enforcement Review Board Rules and Regulations §4.12](#): "...if the person filing the Complaint was incarcerated...the time duration of such incarceration or incapacity shall not be counted..."

¹⁵¹ Adapted from Washington, DC.

¹⁵² From San Diego County [Citizens' Law Enforcement Review Board Rules and Regulations, §5.1\(f\)](#)

¹⁵³ From [New York City Citizen Complaint Review Board, Title 38-A, Ch 1, Subchapter B, §1-11\(a\)](#)

¹⁵⁴ From [San Diego County Citizens' Law Enforcement Review Board Rules and Regulations, §5.2\(e\)](#)

¹⁵⁵ Adapted from [New York City Citizen Complaint Review Board, Title 38-A, Ch 1, Subchapter B, §1-11\(a\)](#)

¹⁵⁶ From San Diego (City)

¹⁵⁷ From [Portland City Code §3.21.110 D](#)

¹⁵⁸ [Police Accountability Commission Areas of Agreement on Best Practices, and Practices to Avoid, from Other Jurisdictions §T2](#)

¹⁵⁹ Adapted from San Diego County [Citizens' Law Enforcement Review Board Rules and Regulations §5.2](#); see also [Chicago Civilian Office of Police Accountability Rules, Art II §2.1.1](#)

- ii. Translation for documents and for verbal communications shall be offered with appropriate interpretation to be inclusive of people for whom English is not their preferred language, and people with disabilities.¹⁶⁰
- iii. The complainant shall be asked to state their preferred method of communication at the beginning of the process.
- B. Complaints called in to members of the Police Bureau (including Internal Affairs or the appropriate City investigatory body) or to the City's information lines (such as 311) shall be directed to the Board's staff.¹⁶¹
- C. The Board's offices shall be open to accept complaints for longer hours than M-F 9 AM-5 PM, including early mornings, weekend times, and evenings.¹⁶²
- D. The Bureau shall inform the Board immediately upon their knowledge that a member has engaged in conduct that may be subject to criminal and/or administrative investigation.¹⁶³
- E. The Board shall work with staff to be sure complaint forms are widely available.¹⁶⁴

A5. Providing information to complainants

(for providing information to officers, see "Investigations")

- A. During intake, the complainant shall be informed of any obligations the Board may have to report something that is stated to them as part of a complaint and to provide the complaint itself to the involved officer. It is important that the Board not turn over any admission of civil violations, criminal conduct, or criminal intent unless there is an imminent threat of harm to the complainant or others. That part of the investigation or interview which could incriminate the complainant in criminal proceedings will be considered confidential.
 - i. During intake, staff shall not express opinions about the complainant or the truth or merit of their allegations.
 - ii. However, if the staff conducting intake has some kind of bias or conflict regarding the complaint, complainant or nature of the allegations, they shall reveal that bias. At that point, another staff member shall complete the intake.
 - iii. If they perceive bias, complainants may request another staff person to complete the intake.
- B. Complainants shall receive records of their complaint, including:¹⁶⁵
 - i. confirmation of the receipt of the complaint¹⁶⁶ including a summary of the allegations;

¹⁶⁰ Adapted from San Francisco.

¹⁶¹ Adapted in part from [New York City Civilian Complaint Review Board Rules §1.12](#), see also: [Portland City Code 3.21.110A1b](#).

¹⁶² Expanded from [New York City Civilian Complaint Review Board Rules §1-13](#) and San Francisco Department of Police Accountability

¹⁶³ Adapted from [Portland City Code 3.21.110 A3](#).

¹⁶⁴ Adapted from [Portland City Code 3.21.090A1](#).

¹⁶⁵ Adapted from: [San Diego County Citizens' Law Enforcement Review Board Rules and Regulations §9.11](#); [New York Civilian Complaint Review Board Rules, Title 38-A §1-35](#)

¹⁶⁶ [Chicago Civilian Office of Police Accountability Rules, Art II §2.3](#)

- ii. literature about the Board and its process including explanation of confidentiality issues;
 - iii. as appropriate, a medical release form for records related to the complaint;
 - iv. notice if the investigation cannot be completed in the ordinary timeline;
 - v. notification of completion of the investigation in a final report; and
 - vi. a survey about their experience with the complaint system.
- C. Information for the complainant about the complaint shall be made available online.¹⁶⁷
- D. The complainant should have access to as much information about their complaint as legally possible, even if some material has to be redacted.
- i. The complaint navigator shall have access to all available records in order to best advise the complainant, even information the complainant or their community representatives are not legally authorized to access. Such materials may also be redacted to comply with privacy laws.
- E. The complainant shall not incur costs for access to information about their complaint.¹⁶⁸
- F. Communication shall not be made by postcard or other means of written communication that jeopardizes privacy.

A6. Types of conduct/cases the board will address

- A. The Board shall investigate certain Police actions, including but not limited to:¹⁶⁹
 - i. All deaths in custody (including effective/constructive custody) and uses of deadly force;
 - ii. All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.
- B. The Board shall also investigate allegations of:¹⁷⁰
 - i. dishonesty/untruthfulness including perjury;
 - ii. false reports & concealing evidence;
 - iii. sexual assaults, sexual misconduct, or sexual harassment;
 - iv. domestic violence;
 - v. unlawful search/arrest;
 - vi. neglect of duty;
 - vii. discourtesy, including use of profanity;
 - viii. improper discharge of a firearm;
 - ix. criminal conduct, including off-duty criminal conduct;
 - x. improper or illegal act, omission or decision that directly affects a person or property;
 - xi. violation of orders which affect a community member;
 - xii. harassment;

¹⁶⁷ From New York Civilian Complaint Review Board, <https://www.nyc.gov/site/ccrb/complaints/complaint-status/check-complaint-status.page>; see also *USA v City of Portland* Paragraphs 138-140).

¹⁶⁸ Adapted from [Portland City Code 3.21.070J](#)

¹⁶⁹ With the exception of "effective/constructive custody," language is from [Portland City Charter Section 2-1008](#).

¹⁷⁰ With the exception of "allegations of affiliation with white supremacist groups," language comes from: [San Diego City Charter Art V §41.2](#), [San Diego County Citizens' Law Enforcement Review Board, Denver Office of the Independent Monitor Ordinance Art. XVIII §2-373\(a\)](#), and [New York Civilian Complaint Review Board Rules Title 38-A §1-02](#).

- xiii. intimidation;
- xiv. retaliation;
- xv. force used at protests;
- xvi. abuse of authority (such as use of police credentials in a personal dispute);
- xvii. officer failure to identify;
- xviii. theft of money;
- xix. corruption;
- xx. allegations of affiliation with white supremacist groups;
- xxi. cases of substantial public interest; and
- xxii. where data show a pattern of inappropriate policies.

C. The Board may also investigate:

- i. Any alleged misconduct directly affecting the public, including work-related allegations such as tardiness if they affect a community member;¹⁷¹
- ii. Other cases which do not originate from a complaint, at the discretion of the Board.¹⁷²

D. If the involved officer is within their 18-month probationary period and is fired by the Bureau, the Board shall complete the investigation.¹⁷³

E. When the only officers involved are from another jurisdiction, the Board shall ask permission from the complainant to forward their complaint to the proper investigating authority.¹⁷⁴

F. If a complainant asks the Board not to investigate a case that falls under the Board's mandate in the Charter, the Board shall weigh the interests of community concerns and the need for justice against the wishes of the complainant (and/or their attorney if there is one).

A7. Complaints not involving community members

A. The appropriate City investigatory body (such as Internal Affairs) should investigate violations that do not impact the community.

- i. For example, taking home a police car for personal use would not be investigated by the Board, unless that vehicle then runs into another car or person or is used for intimidation.

B. Officers who file complaints against other officers should have the ability to ask the Board to investigate to ensure an impartial review.

- i. However, when Bureau supervisors generate complainants about poor member performance or other work rule violations, Responsible Unit managers are responsible for intake and investigation.¹⁷⁵

A8. Preliminary investigations

Commented [PAC23]: This code section says:
 "The Board shall review incidents and investigated complaints of alleged misconduct by Portland Police Bureau probationary officers when referred by the Chief, Branch Chief or the IPR Director. However, nothing in this section prohibits the Bureau from terminating the employment of a probationary officer without following the procedures of this section."

¹⁷¹ Expanded from Philadelphia.

¹⁷² [Portland City Charter 2-1008 \(c\)](#): "The Board may investigate other complaints or incidents of misconduct as they see fit or as mandated by City Code."

¹⁷³ From Portland City Code 3.20.140B2

¹⁷⁴ Added by Commissioners to ensure community member input, so that they have the option whether or not to participate in a system where, unlike in Portland, police investigate other police.

¹⁷⁵ [Portland City Code 3.21.120 B4](#)

- A. When the Board receives a complaint involving a Bureau member, or a case not originating a complaint (as in A6A and A6Cii), the staff shall:¹⁷⁶
 - i. Assign a case number;
 - ii. Conduct a preliminary investigation, including gathering information about the complaint, if there is one, through an intake interview;
 - iii. Make a decision about whether the case should be investigated, suggested for mediation, addressed by some other means, or dismissed;
 - iv. If appropriate for a full investigation, identify the complainant's allegations or possible types of misconduct; and
 - v. Communicate to the complainant, if there is one, summarizing the complaint and the case handling decision.
- B. Informal Complaint: If the complainant expresses an interest in resolving the complaint informally through discussion with the officer's supervisor, the Board shall determine whether such resolution is appropriate.
 - i. The supervisor shall make a determination whether to resolve the case informally or send it back to the Board for full investigation.
 - ii. Once approved, a case can be resolved this way without formal investigation and the complainant will be informed of this decision.¹⁷⁷
 - iii. If the case is sent on for full investigation, the Board will inform the complainant.

A9. Dismissals

- A. After a preliminary investigation, the Board may dismiss the case.¹⁷⁸
 - i. If the case is dismissed, the Board will provide notification to the complainant.
 - ii. The Board will also notify the involved officer(s) and their commanding officer once the appeal deadline has passed (see "Appeals" section).
- B. The Board may dismiss a case for the following reasons (but may wish to initiate potential policy recommendations from dismissed cases):¹⁷⁹
 - i. The complaint is only related to criminal charges or alleged violations against the complainant, and does not allege misconduct;
 - ii. The complainant delayed too long in filing the complaint to justify initiating an investigation (see "Timelines to file");
 - iii. Even if all aspects of the complaint were true, no act of misconduct would have occurred or it would be so minor that it would not justify the time spent investigating;
 - iv. The complainant withdraws their complaint or fails to complete necessary steps to continue with the complaint. It may benefit the community to finish the investigation. However, lack of cooperation and lack of consent from a complainant may make it impossible or inappropriate to complete the investigation.
 - v. Lack of jurisdiction (see A6e).

¹⁷⁶ Adapted from [Portland City Code 3.21.120 C](#)

¹⁷⁷ Proposed by Commissioners to replace Supervisory Investigation with a more informal resolution. Based on conversation with IPR.

¹⁷⁸ [Portland City Code 3.21.120C4](#)

¹⁷⁹ Adapted from [Portland City Code 3.21.120C4](#)

- vi. For the duration of the *US DOJ v. City of Portland* Settlement Agreement, cases alleging excessive force shall only be dismissed when there is "clear and convincing evidence" that the allegation has "no basis in fact."

B. Investigations

B1. Referral of criminal investigations

- A. The Board has the authority to refer cases to the District Attorney or other authority for criminal investigation when the incident or allegations indicate possible criminal activity by the officer(s).¹⁸⁰

B2. Basic elements of a misconduct investigation

- A. Beyond the basic elements listed here, the Board shall determine investigative procedures to provide guidance for staff operations.¹⁸¹
- B. Investigations shall follow federal and state constitutions and laws, city charter, Board rules and regulations, relevant collective bargaining agreements, and the National Association for Civilian Oversight of Law Enforcement (NACOLE) ethics code regarding Personal Integrity, Independent and Thorough Oversight, Transparency and Confidentiality, Respectful and Unbiased Treatment, Outreach and Relationships with Stakeholders, Agency Self-examination and Commitment to Policy Review, Professional Excellence, and Primary Obligation to the Community.¹⁸²
- C. In all investigations involving Officer Involved Shootings and other cases which may involve criminal misconduct, officers shall receive Lybarger/Garrity warnings that they are being compelled to testify for administrative investigation, and the content of the interview cannot be used in a criminal proceeding.¹⁸³
- D. Investigations must be ethical, independent, thorough, timely, fair, and impartial.¹⁸⁴
- E. Investigations shall include, if these elements exist and are reasonably available:¹⁸⁵
 - i. interviews of the complainant, officer(s), and witness(es);
 - ii. gathering evidence including photos, videos, proof of injuries and other relevant medical records;
 - iii. examining police roll calls, logs, assignments, and other relevant information; and
 - iv. site visits as deemed appropriate.
- F. Interviews with officers are all recorded.¹⁸⁶
- G. Interviews with community members will be recorded, unless the community member requests not to be recorded. In these instances, the request by the community member shall be documented, and a stenographer will be enlisted to ensure the interviewee's answers are captured accurately.¹⁸⁷

¹⁸⁰ From [City of San Diego Charter Article V, §42.1 "Commission on Police Practices"](#)

¹⁸¹ From New York.

¹⁸² [National Association for Civilian Oversight of Law Enforcement Code of Ethics](#)

¹⁸³ From [San Diego County Citizens' Law Enforcement Review Board Rules and Regulations §9.2](#)

¹⁸⁴ From [San Diego County Citizens' Law Enforcement Review Board Rules and Regulations §5.1](#)

¹⁸⁵ From [San Diego County Citizens' Law Enforcement Review Board Rules and Regulations §9.2](#)

¹⁸⁶ Adapted from [New York City Civilian Complaint Review Board, Ch.1, Subchapter C, §1-24](#)

¹⁸⁷ Adapted from San Diego City.

- i. However, a community member concerned about confidentiality of certain information may request that parts of their transcript be redacted for confidentiality purposes, so long as the redaction does not interfere with the ability to fully investigate or the due process rights of the officer.
- H. Civilian interviews can take place at locations other than the oversight body's office.¹⁸⁸
- I. Incomplete complaints can be investigated if the oversight body determines investigation is warranted.¹⁸⁹
- J. Investigations shall be completed even if an officer retires, resigns, or is fired.¹⁹⁰
- K. Anonymous complaints and complaints with unidentified officers will be investigated to the full extent possible, and if necessary left open pending identifying the persons involved as needed.¹⁹¹
- L. Investigators shall have access to and be authorized to examine and copy, without payment of a fee, any Bureau information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, and police databases, subject to any applicable state or federal laws.
- M. All Bureau employees shall be truthful, professional and courteous in all interactions with the Board. No member shall conceal, impede or interfere with the filing, investigation or determination of findings of a case.¹⁹²
- N. The Oversight Board may compel officer testimony, issue subpoenas, access police records, and obtain and handle confidential information to conduct an investigation.¹⁹³
- O. If for any reason during the process, investigators come to a decision that there is not enough information to finish the investigation, the complainant has the right to appeal that decision by providing further information.

B3. Timelines to complete investigations

- A. Investigations shall be completed in 180 days or less.¹⁹⁴ An investigation reaching the 180-day timeline will continue until resolved.
 - i. If investigators are unable to meet these timeframe targets, the staff shall undertake and provide a written review of the process for the Board to identify the source of the delays and implement an action plan for reducing future delays.¹⁹⁵
 - ii. Informal complaints shall be resolved in 60 days or less.¹⁹⁶
 - iii. These timelines may be extended if more time is needed, including at the request of a complainant and/or their attorney.¹⁹⁷

¹⁸⁸ Adapted from [New York City Civilian Complaint Review Board, Ch1, Subchapter C, §1-24](#)

¹⁸⁹ From Chicago.

¹⁹⁰ Police Accountability Commission Areas of Agreement on Barriers to Police Accountability, and Best Practices, in the Current System in Portland

¹⁹¹ Suggested by Commissioners to give guidance on anonymous complaints.

¹⁹² [Adapted from Portland City Code 3.21.070\(J\)](#) to transfer IPR's access to the new oversight system

¹⁹³ [Portland City Charter §2-1007](#)

¹⁹⁴ [USA v City of Portland](#) DOJ Settlement Agreement, §VIII A-121

¹⁹⁵ [USA v City of Portland DOJ Settlement Agreement, §VIII A-123.](#)

¹⁹⁶ Adapted from San Diego (City).

¹⁹⁷ Adapted from San Francisco and New York.

- iv. The investigative staff shall inform the Board, the complainant (and their complaint navigators) and the officer(s) (and their complaint navigators) if an investigation goes beyond the mandated timeline. They shall also inform the officer's supervisor, the Chief and Commissioner of Police should those parties still be involved in the discipline process.¹⁹⁸

B. Use of deadly force, and death investigations are prioritized for completion.¹⁹⁹

B4. Investigations of deadly force / deaths in custody

- A. When an incident involves police use of deadly force or a death in custody, the Board shall follow these procedures:
 - i. Board staff investigators head to the scene and collect evidence alongside criminal investigators.
 - ii. Board investigators sit in on interviews conducted for the criminal investigation.
 - iii. Administrative investigators shall have the ability to compel testimony once either the criminal investigators have completed their interview, or the officer has postponed their interview with criminal investigators.
 - iv. If there are questions about possible administrative violations, board investigators will ask questions of witnesses.
 - v. The investigations shall include:
 - a. A review of the supervisors and others who were on the scene, including officers who used force or may have precipitated the use of deadly force.²⁰⁰
 - b. The final investigation will also be sent to the PPB Training Division for an analysis to be presented to the Board at the hearing on the deadly force incident.²⁰¹
- B. The community member subjected to use of deadly force, or their survivors if the interaction resulted in death, shall be considered as complainants and shall have full rights to appeal.
 - i. In cases in which survivors choose not to file a complaint, the investigation shall still be handled in the same way as all other misconduct investigations.

B5. Information provided to officers

- A. When an investigation begins, an officer shall be informed in writing:²⁰²
 - i. of the nature of the investigation;
 - ii. whether the member is a witness or an involved member; and
 - iii. other information necessary to reasonably inform the involved member of the nature of the allegations, including the time, date, and location of the incident (if known).
- iv. No information that would compromise the integrity of the investigation shall be shared with the involved officer.

¹⁹⁸ Adapted from City Code 3.21.170A

¹⁹⁹ From San Diego County.

²⁰⁰ Police Review Board public reports <https://www.portland.gov/police/divisions/prb-reports>

²⁰¹ PPB Directive 1010.10, Section 7
<https://www.portlandoregon.gov/police/article/656780>

²⁰² Section adapted from PPA Contract Section 61.2.1

C. Findings

C1. Determination process and findings

- A. Findings are determined using the "Preponderance of the Evidence" Standard.²⁰³
- B. The oversight body uses a standard set of four options for findings in all cases:²⁰⁴
 - i. "Out of Policy," meaning the action is found to have violated policy. In some jurisdictions, this is known as "sustained;"
 - ii. "In Policy," meaning the officer's actions were within the law and policy. In some jurisdictions, this is known as "exonerated;"
 - iii. "Unfounded," meaning the evidence shows the alleged events did not occur; and
 - iv. "Insufficient Evidence," meaning there is not enough information or evidence to attach any of the other findings.
- C. The Board may also add these additional findings related to systemic aspects of the case which led to the interaction that prompted the investigation:²⁰⁵
 - i. Policy Failure, meaning the Board recommends that the Bureau revise its policy;
 - ii. Training Failure, meaning the Board recommends that the Bureau revise its training;
 - iii. Supervisory Failure, meaning someone in the chain of command supervising the officer engaged in an action that led to the incident;
 - iv. Communication Failure, meaning officers did not communicate well among themselves or information was otherwise not properly relayed to the involved officer(s); and
 - v. Equipment Failure, meaning the equipment provided did not function properly or was not adequate.
- D. All of these findings shall be applied whether the case is generated by a complaint or if the Board investigates as required by City Code and Charter.
 - i. These findings shall also be used for consistency by any other body or supervisor who investigates officer complaints which do not involve community members.

C2. Hearings, preliminary hearings, and panels

- A. The Board may create panels to hear cases to determine findings about whether policies were violated.²⁰⁶
 - i. Panels shall be no smaller than five Board members.
 - ii. In more serious cases, these panels shall have more members than in other cases.²⁰⁷
 - iii. The panels shall be created to ensure diversity based on life experience, race, gender, and other factors, including, if appropriate, whether members are nominated by different people or entities.
 - iv. Each panel shall have a presiding individual over each hearing.

²⁰³ As in San Diego County, New York, and the recommendation of Consultant Eileen Luna Firebaugh's 2008 report on the IPR.

²⁰⁴ Reflects current practice in Portland (Directive 332.00) and Washington, DC, New York, San Francisco, San Diego (City) and San Diego County.

²⁰⁵ Adapted from Consultant Eileen Luna Firebaugh (2008), Seattle and San Francisco.

²⁰⁶ Adapted from San Diego (City), New York and San Diego County.

²⁰⁷ Portland City Code 3.20.140C.

- B. The Board can take interim steps prior to findings being determined in specific cases.²⁰⁸
 - i. A case can be prioritized if an officer is retiring or being promoted.
 - ii. The Board can recommend suspending an officer, or delaying promotion, while administrative charges are pending.
- C. Members of the hearing panel shall review all investigative materials.²⁰⁹
 - i. In reviewing the case, the panel may examine any supporting documents, the file and report of the staff, and any documents accumulated during the investigation. They may also listen to and/or watch the recordings of all interviews.²¹⁰
- D. The panel shall hold a preliminary hearing to assess the completeness and readiness of the investigation for a full hearing.²¹¹
 - i. The complainant and officer will be notified of the date of the preliminary hearing, but are not required to attend. They may appear with any or all of their support persons.²¹²
 - ii. Public comment on the readiness of the investigation will be taken before the panel makes a decision whether to proceed.²¹³
- E. The panel will decide whether to:²¹⁴

Send the case back for further investigation, specifying the information sought; or send the case forward to a full Hearing.

C3. Hearings Process

The Board will decide whether some or all of the preliminary hearing will be held in open session or executive session in accordance with existing legal standards and considering the public interest, the officer's preference (see ORS 192.660[2][b]), the complainant's preference, precedents set by the existing oversight system, and other relevant factors.

- A. The Board will hold hearings on misconduct cases and investigations.²¹⁵ The hearings shall be recorded.
 - i. Public notice of hearings shall be posted at least seven business days before the hearing date.²¹⁶
 - ii. While details protected in executive session are confidential, decisions shall be made publicly.²¹⁷
 - iii. Throughout the hearing process, the Chair or presiding individual shall remind the audience of the seriousness of the employment matter being discussed while acknowledging community responses.²¹⁸

²⁰⁸ From New York.

²⁰⁹ Adapted from CRC protocol PSF 5.03(6): "Only Committee members who have reviewed the complete administrative case file will participate in the appeal."

²¹⁰ From Portland City Code 3.21.060B (IPR).

²¹¹ From Portland City Code 3.21.150B

²¹² This is current practice for the Citizen Review Committee but is not in City Code.

²¹³ From Portland City Code 3.21.150B

²¹⁴ From Portland City Code 3.21.150C and D.

²¹⁵ Based on Citizen Review Committee hearings, Portland City Code 3.21.160A, Maryland and Seattle.

²¹⁶ Adapted from San Diego County.

²¹⁷ From ORS 192.660(6).

²¹⁸ Addresses concerns raised in the "embarrassment clause" in the PPA contract Section 20.2.

- iv. A person from the upper management of the Bureau's Training Division shall attend all hearings to answer questions about police policy, training, or procedure.²¹⁹
- B. The hearings process has accommodations to ensure accessibility.²²⁰
 - i. The complainant can appear with their complaint navigator, as well as a support person and/or an attorney.
 - ii. The officer can appear with their bargaining unit representative/complaint navigator, and/or their attorney and/or support person.
 - iii. Interpreters shall be provided with adequate advance notice for arrangements to be made.
 - iv. Other accommodations shall be made for people with disabilities.
- C. Procedure for the hearings (Note: throughout this subsection, "complainant" and "officer" may include their representatives.)²²¹
 - i. The basic circumstances of the case and allegations shall be read into the record at the beginning of the hearing.²²²
 - ii. The complainant and officer can make opening statements; the complainant can choose whether to provide their statement before or after the officer.²²³
 - iii. The presiding individual begins questions of witnesses, followed by other panel members.²²⁴
 - iv. Board staff can ask questions at the invitation of the presiding individual.
 - v. The officer or complainant can request specific items about which the panel may ask more questions.
 - vi. Once recognized by the presiding individual, the complainant and officers have the ability to ask questions, request additional questions, call witnesses, introduce exhibits, cross-examine witnesses, and suggest that the panel impeach witnesses. The Oversight Board shall establish guidelines and methods for these processes.
 - vii. The complainant and officer can offer rebuttals.²²⁵
 - viii. The officer and complainant can make closing statements.²²⁶
 - ix. The panel deliberates on the evidence.²²⁷
 - x. Public input shall be taken before the panel's final deliberation and decision.²²⁸
 - xi. Should there still be outstanding issues regarding evidence that can be obtained, the panel may decide to send the case back for further investigation, specifying the information sought.²²⁹

²¹⁹ From Police Review Board advisory members in Portland City Code 3.20.140 C1(b)(7).

²²⁰ Adapted from San Diego County.

²²¹ Except as noted, steps listed in section C3c are from PSF 5.03 Citizen Review Committee Appeals Procedures.

²²² From PSF 5.03 7b.

²²³ From PSF 5.03 7c&d

²²⁴ Sections C3c3 to C3c6 adapted from San Diego County.

²²⁵ From PSF 5.03 7j and San Diego County.

²²⁶ from San Diego County.

²²⁷ Adapted from PSF 5.03 7l.

²²⁸ From PSF 5.03 7i.

²²⁹ From City Code 3.21.160 A1a and PSF 5.03 I-i.

- xii. The panel decides findings, with each member explaining their position.²³⁰
 - xiii. Those who disagree can include their dissenting information along with the findings.²³¹
 - xiv. When a decision is made at the end of a hearing, the presiding individual should explain the next steps, including the appeal process.²³² If any finding is made outside the public hearing process where an appeal is still possible, or the complainant does not appear at the hearing, a Board representative can explain the process or delegate that responsibility to staff.
- D. Should the panel decide that one or more allegation is in violation of Bureau policy, they will move to a decision on the discipline for the involved officer, which shall also be decided.²³³
- E. Hearings can be held even if parties fail to appear.²³⁴
- F. The panel may receive any oral or written statements volunteered by the complainant, the involved member, other officers involved, or any other person.²³⁵
- G. Hearsay is admissible; evidence is allowed if "responsible persons are accustomed" to using such information in "serious affairs."²³⁶
- H. When the Hearing process develops new information, the panel may consider the new information when determining if additional investigation is warranted, but the panel may not use the new information to determine findings.²³⁷

C4. Providing information to complainants and officers

- A. Board staff shall distribute information to involved parties before the hearing.²³⁸
- B. An investigative report will be sent to the complainant, officer, and their identified support persons no less than fourteen business days before the hearing.
 - i. The complainant and officer shall be given access to the same information as allowable by law.²³⁹
 - ii. Any information that is provided to the officer but not the complainant shall be shared with confidentiality protections with the complainant's complaint navigator.²⁴⁰

²³⁰ From PSF 5.03m.

²³¹ From City Code 3.20.140 F2 and San Diego County.

²³² Adapted from PSF 5.03n.

²³³ City Code 3.20.140 directs the Police Review Board to vote on findings and discipline at the same time.

²³⁴ From San Diego County.

²³⁵ From Portland City Code 3.21.160B.

²³⁶ From San Diego County

²³⁷ from Portland City Code 3.21.160B.

²³⁸ C4a and b adapted from San Diego County.

²³⁹ Note: the PPA contract guarantees the officer rights to:

61.2.3.2 A copy of all materials developed in the investigation which will contain all material facts of the matter, including witness statements relied on to make findings. And

61.2.3.3 The names of all witnesses and complainants who will appear against the member and/or whose statements will be used against the member.

²⁴⁰ From PSF 5.21(4).

- C. Following the decision of the Board, the findings shall be shared in writing (or other means if requested) with the complainant and officer(s).²⁴¹

C5. Stipulated discipline

- A. To expedite the process, officers can admit to misconduct and accept the proposed discipline.²⁴² Stipulating to discipline will not reduce the level of discipline imposed.
- B. The officer may have up to 7 days to inform the Board that they stipulate to the Findings and Discipline, thus waiving all four possible avenues of appeal (to an Appeals Panel of the Oversight Board, to the Portland Civil Service Board, through a grievance or through a due process hearing).
- C. The following categories of cases are not eligible for stipulated discipline:²⁴³
 - i. cases involving alleged use of excessive force including officer shootings and deaths in custody;
 - ii. cases involving alleged discrimination, disparate treatment or retaliation;
 - iii. cases in which the body which determines discipline does not agree to accept the member's proposed stipulation to findings and recommended discipline.
- D. The following categories of investigations are eligible for stipulated discipline:
 - i. First time offenses that would not ordinarily lead to discipline of more than one day off without pay;
 - ii. Second time offenses that would only lead to command counseling or a letter of reprimand.
- E. In an investigation involving multiple potential violations, the violation with the highest category from the City's Corrective Action Guide will be used to determine whether the case qualifies for stipulated discipline.
- F. Stipulating to out-of-policy findings and discipline does not remove the complainant's ability to appeal any other finding.

D. Discipline / Corrective Action

D1. How to impose discipline / application of the discipline guide

- A. The Board has the authority to issue disciplinary action up to and including termination for all sworn members and the supervisors thereof within the Portland Police Bureau.²⁴⁴
 - i. Because the Bureau of Human Resources has authority over every city employee, if for some reason the Board is unable to directly impose discipline/corrective action, the Bureau of Human Resources shall enact the will of the Board.²⁴⁵

²⁴¹ From San Diego (City), San Diego County and San Francisco.

²⁴² Concept from DOJ Paragraph 131.

²⁴³ Adapted from Portland City Code 3.20.140 J

²⁴⁴ Portland City Charter 2-1007a.

The 2021-2025 Portland Police Association contract 2.1 states "The City shall retain the exclusive right to exercise the customary functions of management including [...] the right to hire, lay off, transfer and promote; to discipline or discharge for cause" and the new Board is part of the City infrastructure.

²⁴⁵ Portland City Charter section 2-1006 states: "The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment."

- ii. Discipline may include various consequences for the officer, as well as education-based alternatives to promote a positive outcome and avoid employee embitterment.²⁴⁶
- B. The discipline imposed must be consistent with the City's corrective action guide, including exceptions that are written into the guide.
- C. The discipline can note trends and take into account the officer's individual history.²⁴⁷
- D. The Police Bureau may not issue discipline less than what the Board chooses to impose.²⁴⁸
 - i. If the Bureau wants to increase discipline, they need to appear before the Board to discuss the reasoning. The Chief or representative will have to describe the aggravating factors informing their proposal.²⁴⁹
 - ii. The Board has the authority to accept or reject the Bureau's proposal.

D2. Due process and just cause rules

- A. The discipline process shall be consistent with due process and just cause considerations as they apply to the specific employees in question.²⁵⁰
 - i. The state of Oregon defines "just cause" as "a cause reasonably related to the public safety officer's ability to perform required work. The term includes a willful violation of reasonable work rules, regulations or written policies."²⁵¹
 - ii. Due process includes:²⁵²
 - a. The right to a hearing, which includes the right to present one's case and submit evidence;
 - b. The decision-makers must consider the evidence presented;
 - c. The decision must be supported by the evidence;
 - d. The evidence must be substantial, in this process defined as a preponderance of the evidence;²⁵³
 - e. The decision must be made based on the evidence presented at the hearing, or on evidence contained in the record and disclosed to the parties affected;
 - f. The decision-makers (in this case, the Board) must act on their own independent consideration of the law and facts and not simply accept the views of a subordinate (such as the staff) in arriving at a decision;²⁵⁴ and

²⁴⁶ Language from Portland's 2021-2025 Corrective Action Guide.

²⁴⁷ From San Diego County.

²⁴⁸ The Board decides discipline (Portland City Charter 2-1007); in Oakland the Police Commission can make a final determination.

²⁴⁹ Sections D1d1 and D1d2 adapted from City Code 3.21.140 H4

²⁵⁰ From City Council Resolution 37548, Exhibit A.

²⁵¹ From ORS 236.350.

Includes but is not limited to "willful violations"

²⁵² from Supreme Court case *Ang Tibay v. CIR*

²⁵³ Note that "substantial" does not actually have to be a preponderance so the proposed standard is higher than required.

²⁵⁴ The Board is cited here because of the independent judgment clause in Portland City Charter 2-1006.

- g. The board or body should, in all controversial questions, make its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reason for the decision made.
- B. Due process includes the officer's right to a separate due process ("Loudermill") hearing as it applies to the specific employees in question. These hearings are required to be administered by the body imposing the discipline, which in this case is the Board.²⁵⁵
 - i. When discipline is imposed by the Board, a panel made up of Board members shall hold the due process hearing.
 - ii. When discipline is imposed by the Bureau of Human Resources, one or more representatives of the Board's panel shall attend the due process hearing to aid in deliberations.

E. Appeals

E1. Both the complainant and the officer have rights to appeal their cases.²⁵⁶

- A. The complainant may appeal findings, dismissals, or decisions not to investigate.²⁵⁷
- B. Police officers may also appeal findings, dismissals, or decisions not to investigate.²⁵⁸
 - i. Supervisors cannot file appeals on behalf of officers.²⁵⁹
 - ii. Officers may alternately file appeals with the Civil Service Board (E3b)²⁶⁰ or initiate a grievance procedure, which may lead to arbitration (E3c).²⁶¹
- C. The request for an appeal will include the name of the complainant or officer filing, date of the incident, and reason for the appeal.²⁶²
 - i. The complaint navigator provided by the Board shall assist the complainant in filing the appeal form.²⁶³
- D. The Board has independent authority to reopen cases when it is in the public interest; reasons may be due to written, verbal or other community opposition to a decision.²⁶⁴
 - i. Suggestions for the Board to reconsider a case may be made by a vote of City Council.²⁶⁵
- E. A request to end an appeal may be made at any time, but withdrawal should be done in consultation with the complaint navigator and may include confidential information. If practical and appropriate the appeal might still proceed without the complainant.²⁶⁶

²⁵⁵ From Supreme Court case [Loudermill v. Cleveland Board of Education](#).

Due process is guaranteed by court decisions in cases of dismissal, demotion, fine, or suspension. In Portland this also applies to Letters of Reprimand (see PPA 20.1). Because this is a constitutional right, the code should be specific but not prevent contract changes. (In other words, the law may not apply automatically to Letters of Reprimand.)

²⁵⁶ From New York and Portland City Code 3.21.140A.

²⁵⁷ Adapted from New York and San Diego County (and Portland).

²⁵⁸ Adapted from New York, San Diego (City), San Diego County, Seattle (and Portland).

²⁵⁹ From San Diego (City).

²⁶⁰ Portland City Charter Article 4.

²⁶¹ Portland Police Association Contract Article 20.1.1.2, as allowed by ORS 243.706.

²⁶² Portland City Code 3.21.140 D.

²⁶³ Added by Commissioners.

²⁶⁴ Adapted from San Diego County and New York.

²⁶⁵ Adapted from San Diego County.

²⁶⁶ Adapted from Portland City Code 3.21.140E.

E2. Timelines for appeals

- A. Community members have 30 days to appeal, but exceptions can be made to extend the timeline.²⁶⁷
 - i. The Board may adopt rules for permitting late filings for a total of no more than 60 days, for reasons including, but not limited to:²⁶⁸
 - a. The complainant has limited English language proficiency.
 - b. The complainant needs physical, mental, or educational accommodations.
- B. The timeline for officers to appeal is 30 days, with only limited exceptions allowing up to a total of no more than 60 days if they are incapacitated or unable to receive or send information to the Board.²⁶⁹
- C. Until the appeal period has expired, and if an appeal is filed, until there is a final decision by the Board, the City may not enact proposed discipline.²⁷⁰

E3. Appeals Hearings

- A. Appeals will be heard by a different panel of Board members than heard the original case, except in cases in which the basis for the appeal is the discovery of new information.²⁷¹ In either situation, this will be referred to as an Appeals Panel.
 - i. A certain number of Board members may be assigned to a Board Appeals Committee whose main function is to hear appeals.
 - ii. If a member of the original panel is unavailable, a Board member or Appeals Committee member who was not part of the original hearing may be assigned to the hearing.²⁷²
 - iii. If there are not enough members of the Appeals Committee for a quorum, members of the full Board who did not hear the original case may be assigned to the hearing.²⁷³
 - iv. In the case that an appeal is based on the discovery of new evidence, investigators will confirm the validity of the evidence prior to an appeal hearing.
 - v. The Board may select a subset of between 2-5 members to process appeals of dismissals or decisions not to investigate.
- B. If an officer chooses to appeal to the City's Civil Service Board, the Hearings panel shall receive a copy of the appeal and provide a written statement about the misconduct and supporting evidence.²⁷⁴

²⁶⁷ From New York.

²⁶⁸ Portland City Code 3.21.120B.

²⁶⁹ Adapted from San Diego (City).

²⁷⁰ Portland City Code 3.20.140 G2.

²⁷¹ Adapted from New York.

²⁷² Adapted from New York.

²⁷³ Adapted from New York.

²⁷⁴ Adapted from San Diego County.

- i. One or more Hearings panel members may attend the Civil Service Board hearing, subpoena witnesses, present evidence, and cross-examine.
- C. If an officer chooses to file a grievance and an arbitration hearing is held, the Hearings panel shall receive a copy of the grievance and provide a written statement about the misconduct and supporting evidence.²⁷⁵
 - i. The Hearings panel may have one or more representatives attend the arbitration hearing to present evidence and answer questions about the findings.
- D. To the extent possible, the complainant will be allowed to attend, or at least remain apprised of appeals held outside of the Board's direct scope and authority, with their complaint navigator assigned until a final decision is made.²⁷⁶
- E. At an appeal hearing, decisions on the findings shall be made on a preponderance of the evidence.²⁷⁷
- F. All members of the Appeals Panel shall review recordings and all records of the original hearing.²⁷⁸
- G. Appeals hearings shall follow the same procedure described in the Findings section on Hearings, including for disciplinary decisions; the panel may expedite matters by not repeating information already in the record.
 - i. At the start of the hearing, the basic circumstances of the case, allegations and original findings shall be read into the record.²⁷⁹
 - ii. At the end of the hearing, the Appeals Panel may decide:²⁸⁰
 - a. To recommend further investigation; or
 - b. To affirm the original findings, after which the Board staff shall close the case based on those findings; or
 - c. To determine a different finding based on the evidence, and make disciplinary decisions if there are findings that the officer violated policy.
- H. Members of the Appeals Panel shall have the same authority to compel officer testimony and subpoena witnesses or documents as the original Hearings Panel.²⁸¹

The Portland Civil Service Board consists of three commissioners appointed to voluntary positions by the Mayor under the [City Charter, Chapter 4 - Civil Service](#). The commissioners are appointed to reflect the perspectives of labor, management and the general public.

Their charge is to "Review the suspension, demotion or discharge of a permanent employee, where the employee alleges that the discipline was for a political or religious reason, or was not made in good faith for the purpose of improving the public service."

²⁷⁵ Adapted from San Diego County's role in Civil Service hearings.

²⁷⁶ Addresses "Barriers and Best Practices" Lack of Transparency Section 2: "Important parts of the accountability process are inaccessible to the public."

²⁷⁷ From San Diego County and Subject Matter Experts F2 (proposed by Eileen Luna Firebaugh to City of Portland in 2008).

²⁷⁸ From PSF 5.03(6).

²⁷⁹ Adapted from PSF 5.03 (5).

²⁸⁰ From Portland City Code 3.21.160A1.

²⁸¹ Adapted from Portland City Code 3.21.160A1.

- I. Notifications of the appeal outcomes to complainants and officers shall be the same as under the Hearings process with the exception that no further appeals are allowed through the Board.
- J. The Board staff shall schedule appeals in consultation with the Board leadership or designee.²⁸²

F. Mediation

F1. Voluntary Mediation

There shall be a voluntary mediation program between complainants and officers.²⁸³

- A. The Board has the authority to provide for voluntary mediation between community members and law enforcement.²⁸⁴
 - i. Goals of mediation include improving police-community relations and building better policies.²⁸⁵
 - ii. The Board shall determine whether the case is eligible for mediation based on substance the nature of the allegations and the officer's history.²⁸⁶
 - a. The community member shall be able to consult with their complaint navigator and/or their other support persons before making a decision whether to agree to mediation.²⁸⁷
 - b. Complainants shall not be unduly pressured to choose mediation if they prefer an investigation to take place.
 - c. An officer's supervisor must clear them for approval before the officer can agree to mediation.²⁸⁸
- B. Mediation is not offered for complaints involving use of force, profiling, legal violations such as improper stop, detention, search, or arrest, or for officers with a pattern of misconduct. No case identified as an automatic investigation by the Charter shall be eligible for mediation.²⁸⁹
 - i. Mediation is offered for complaints involving discourtesy and procedural complaints including unwarranted action other than those described in section F1b, and neglect of duty.²⁹⁰
 - ii. If the complainant filed the misconduct complaint based on actions during an incident in which the officer filed criminal charges or citations against the community member, once those criminal allegations have been resolved, mediation about the misconduct complaint can still proceed.²⁹¹
 - iii. Mediation Cost to Participants: There is no cost to utilize the mediation option.

²⁸² Adapted from Portland City Code 3.21.070G.

²⁸³ From San Francisco, New York and Chicago, and Portland City Code 3.21.120A.

²⁸⁴ From San Francisco, New York and Chicago, and Portland City Code 3.21.120A.

²⁸⁵ From San Francisco.

²⁸⁶ Based on Subject Matter Experts G1 suggestion from Eileen Luna Firebaugh.

²⁸⁷ Adapted from PSF 5.09 (5b).

²⁸⁸ Adapted from PSF 5.09 (5b).

²⁸⁹ From San Francisco, New York and Chicago, Subject Matter Experts G1 suggestion from Eileen Luna Firebaugh and PSF 5.09 (4).

²⁹⁰ From San Francisco.

²⁹¹ Adapted from PSF 5.09 (4).

- iv. Mediation shall take place in a neutral environment and location.
- v. If there is a civil lawsuit or criminal case pending against the officer about the incident, mediation cannot proceed.²⁹²
- C. The discussions that take place in the mediation are confidential unless the parties agree otherwise.²⁹³
- D. Mediators shall be screened and trained properly about power dynamics, cultural awareness, racial bias, and other issues which may underlie the incident.
- E. For eligible cases, mediation is an alternative to full investigation.²⁹⁴
 - i. If either party rejects mediation, the case is sent to a full investigation.²⁹⁵
 - ii. Either party to the mediation, or the mediator, can determine that mediation is not successful, and ask for a full investigation if mediation fails.²⁹⁶
 - iii. Successful mediation will conclude with a signed mediation agreement by all parties. Violation of the agreement may result in the case proceeding to a full investigation and/or other next steps as outlined in the agreement itself. Portions of the mediation agreement which could incriminate any party in criminal or administrative proceedings will be considered confidential to the extent allowed by law. The parties may mutually agree to publicly disclose the substance of the mediation as part of the agreement.

F2. Openness and Accessibility of Mediation

Mediation is accessible and open to affected individuals, and in some cases to people other than complainants.

- A. Mediation includes accommodation for people with disabilities, as well as interpreters as needed.²⁹⁷
- B. To accommodate schedules, complainants can provide adequate notice of cancellation on as many as two separate occasions before mediation is abandoned.²⁹⁸
- C. Mediation is available to complainants, as well as to family members of people subjected to alleged police misconduct or other community members, with the complainant's permission, even if complainants do not themselves participate.²⁹⁹
- D. Upon agreeing to the confidentiality of the mediation, one support person of each party's choosing may attend, but not engage in the mediation, to provide moral support and consult during breaks.

The Police Accountability Commission's mandate from City Council does not require addressing these items. Nonetheless, these proposals support the oversight board's ability to fulfil its mandate.

- 1. The City should ensure that nothing in collective bargaining agreements with the Portland Police Association (PPA) or Portland Police Commanding Officers Association

²⁹² From New York.

²⁹³ Adapted from PSF 5.09 (10).

²⁹⁴ From New York, San Francisco and adapted from Portland City Code 3.21.120A.

²⁹⁵ From New York.

²⁹⁶ From New York.

²⁹⁷ From New York.

²⁹⁸ From New York.

²⁹⁹ From New York.

(PPCOA) contradict or undermine City Code related to police accountability and oversight. This includes:

- a. In New York, disciplinary options include putting an officer on probation. The PPCOA contract allows for vacation time or non-Fair Labor Standards Act compensation time to be taken away for discipline, but the PPA contract does not. These may be worth adding to the corrective action guide.
 - b. The current PPA contract (20.5) says that stipulated findings and discipline can be enacted in cases of use of force where the issue is about report writing (for instance); however, if the lack of a report indicates an effort to cover up the force that was used, this should not be allowed.
 - c. Community members are not paid to be part of an interview. The obligation that officers have to be interviewed while on duty may be worth removing from the PPA contract (61.2.2.1).
 - d. Conducting interviews in police facilities (PPA Contract 61.2.2.2) should specify this is only an option when no community member is involved in the case and investigation is **conducted by the appropriate City investigatory body (such as Internal Affairs)**.
 - e. We propose that the City renegotiate to make sure the Board can address, at **minimum**, Deadly Force incidents: PPA Contract 61.2.3 "The parties recognize that IPR has no authority or responsibility relating to Articles 59 [Performance Evaluations], 61.6 [Personnel File], 61.7 [Deadly Force Incidents], and 61.8 [Criminal Investigations]"
2. The City should also pursue amending the *US DOJ v. City of Portland* Settlement Agreement to allow the agreements in this document to be implemented successfully:
- a. Paragraph 140 should include methods to communicate to the complainant other than mail, email/text, and fax.
 - b. The timeline to complete an investigation should be extended from 180 days to 183 days since that is actually how long half of a year lasts. IPR's investigative timeline runs to 182 days. The PAC proposed timeline is 179 days but the two months we have proposed to hold the Preliminary Hearing and Full Hearing should be 63 days rather than 60.

Appendix E6: PAC Administrative Investigations Flowchart
Appendix E7: PAC Administrative Investigations Timeline Comparison

Appendix E8: PAC Areas of Agreement on Structural Oversight

City of Portland Police Accountability Commission Areas of Agreement on Structural Oversight

Definitions

Sentinel Event	Forward-looking root cause reviews of undesirable police-related outcomes
Reviews	designed to allow for the development of recommendations for preventing reoccurrence through continuous process improvements

The Oversight Board (the Board) shall have the authority to make recommendations to the Portland Police Bureau and City Council on Bureau policies, practices, directives, and training. To facilitate this work, the Oversight Board shall have staff dedicated to policy work. This document outlines how policy recommendations are initiated, presented, adopted, and implemented. The public will have the opportunity to comment on all policy recommendations during development and before adoption.

A. Initiation of Policy Recommendation Process

A1. Policy Recommendation Contents

A Policy Recommendation shall identify the body to which the policy change is being recommended (e.g. the Portland Police Bureau, the City Council, the Mayor).

A recommendation will include an outline of the new policy or policy change being recommended.

The recommendation will direct the Board staff on any additional action it considers necessary to advocate for the policy change (e.g. advocating with elected officials, convening stakeholder groups, etc.).

A2. Scope of Authority in Formulating Policy Recommendations

The Oversight Board shall have the authority to engage in independent analysis of police data related to any police practices or procedures.

The Board may access city audit records.

The Board may review current policies and propose new policies or modifications to existing policies based on any information or materials they deem relevant.

The Board may make policy recommendations based on individual misconduct cases.

The Board may make policy recommendations based on its review of complaints and closed misconduct investigations.

The Board will have the authority to hire independent experts when needed.

The Board shall have the authority to review training materials and attend trainings for Bureau employees for the purposes of formulating recommendations. The number of Board members observing training sessions should be fewer than a quorum.

B. Policy Recommendations may be initiated through at least six processes. The Board may also identify additional entry points.

B1. Board Member Proposal

A Board member may suggest a proposed Policy Recommendation. With the support of at least one other Board member, Board members and/or staff shall prepare a proposed Policy Recommendation for consideration by the Board.

B2. Community Member Proposals

The Board will have methods for members of the public to suggest proposed Policy Recommendations to the Board for its consideration. With the support of at least two total Board members, Board members and/or staff shall prepare a proposed Policy Recommendation for consideration by the Board.

B3. Agency Policy Review Initiation and Auditing

Board staff may also initiate policy review, including through auditing completed misconduct cases. If the Board staff initiates a policy review on its own, it shall inform the Board and invite participation throughout the process, including submitting a proposed Policy Recommendation to the Board for approval.

B4. Systemic Findings in Misconduct Cases

During its investigations of complaints and determination of Findings, the Board may (in addition to findings specific to the officer and complaint) determine systemic findings (e.g. “policy failure”). When the Board finds a systemic issue, the Board will automatically initiate a policy review, in which Board members and/or staff shall prepare a proposed Policy Recommendation for consideration by the Board. When the Board finds a policy in need of prompt attention, it may forward its recommendation directly to the Bureau.

B5. Reviews of Undesirable Police-Related Incidents (Sentinel Event Reviews)

Separate from an investigation regarding individual officer misconduct and any related disciplinary action being proposed, the Board may initiate forward-looking root cause systemic reviews of undesirable police-related outcomes and develop recommendations for preventing reoccurrence through continuous process improvements. The review may involve representatives from law enforcement, the judicial branch, forensics, Board members, civil rights lawyers, members of the public, and other relevant participants. The panel will take public comment throughout the process. The Board will issue a report at the conclusion of the review, which may include proposed Policy Recommendations. The Board may consider provisions to require participation in these reviews.

B6. Directive Review

The Oversight Board may facilitate a process for Board and community review and development of Portland Police Bureau policies and directives. This includes engagement in the Bureau's directive review and development process. The Board should schedule timelines compatible with the PPB's processes. The Board will transmit recommendations on revised and newly proposed policies and directives to PPB for their consideration, with City Council having the final say.

C. Process for Board Approval of Policy Recommendations

Potential policy recommendations identified for review are presented for the Board for consideration, discussion, and potential adoption.

A proposed Policy Recommendation shall be placed on the Board's agenda for consideration at the next meeting and may be considered or referred to a sub-committee.

The Board will take input from community members on policy matters while they are under development and before the Board votes.

C1. Presentation of Policy Recommendations

Proposed Policy Recommendations shall be presented to the Board, as well as any findings regarding independent analysis, review of training materials, directives, investigations, Sentinel

Event Reviews, and agreements that may be necessary to inform the Board's decision on the proposed Policy Recommendation.

The Board may request whatever additional materials and research it believes is necessary to help make an informed decision on the proposed Policy Recommendation.

C2. Adopting and Rescinding Policy Recommendations

The Board shall make a formal decision to adopt or not adopt any proposed Policy Recommendation that is put before it. The Board may also make a formal decision to rescind or not rescind previous Policy Recommendations.

C3. Communication of Approved Policy Recommendations

The Board shall publish policy recommendations on the Board's website and other relevant platforms.

D. Implementation of Policy Recommendations

When the Board adopts a policy recommendation, the Board shall collaborate with staff to coordinate necessary next steps towards implementation.

D1. Required Response from Portland Police Bureau

When the Board recommends a change to Portland Police Bureau policy, the Chief, after reviewing a policy recommendation, shall respond promptly to the Board in writing, but in no event more than 60 days after receipt of the recommendation. The response shall indicate what, if any, policy or procedural changes are to be made.

"The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the Board. If the Portland Police Bureau rejects a policy or directive recommendation, then at the request of the Board, City Council must consider and vote to accept or reject the policy recommendations received from the Board. Council's decision will be binding on the Portland Police Bureau." (Charter 2-1007)

D2. City Council Consideration of Policy Recommendations

If the Chief rejects a recommendation, or a portion of a recommendation, or fails to respond within 60 days after its receipt, at the direction of the Board, staff shall within 15 days thereafter place the matter on the Council Calendar, for consideration and a decision by City Council.

If the Board recommends a change to City of Portland policy, the Board or staff shall within 15 days thereafter place the recommended change on the Council Calendar, for consideration and a decision by City Council.

The City Council shall consider and hold a vote on either kind of recommendation no more than three months after it has been presented.

D3. Follow-Up

If a Board recommendation is approved by either PPB or the City Council, the Board shall monitor and pursue full implementation of the recommendation. This may include continued advocacy, requesting the Chief or designee to attend and brief the Board, and requesting data or reports from PPB to determine the level of progress towards implementation, or any other action the Board decides to take.

E. Collective Bargaining

The Bureau of Human Resources shall reserve, during negotiations with collective bargaining units representing PPB sworn officers and their supervisors, at least two seats for representatives chosen by the Board.

The City Attorney shall consult with the Oversight Board during the collective bargaining process and inform the Board as soon as practicable regarding any potential changes to the police contract(s).

The Board's ability to make recommendations shall include proposals for the collective bargaining contracts.

F. PPB Budget Review

The Oversight Board may facilitate a public review, of PPB proposed budget requests before their official submission, and receive public comment to transmit to PPB and the City Council.

G. Oversight of Accountability Systems

G1. Review of Deadly Force Investigations

The Board shall hire qualified staff, a team, or independent expert(s) to review closed investigations pertaining to officer-involved shootings and deaths in custody on an ongoing basis.

The completed reviews shall be described in periodic reports available to the public and include case and investigative summaries, policy implications, recommendations for improvements in police and Oversight Board policies or practices.

The Portland Police Bureau shall respond to recommendations related to PPB and the Board and Director or designee shall address any policy-related or quality of investigation issues that warrant further review.

The reports shall be presented to the City Council, with contemporaneous public testimony allowed.

G2. Continual Improvement

The Board shall ensure qualified staff, a team or independent expert(s) examine Oversight Board performance, the Charter, City Code and Board policies/protocols on an ongoing basis. The Board may make recommendations for improvement to the appropriate decision-making bodies.

H. Board Proposals Related to Federal/State Law

The Board may officially endorse legislation/policy ideas and shall have the authority to testify in front of relevant government bodies and communicate its policy positions with employees and elected or appointed officials at any level of government. The Office of Government Relations shall consult directly with the Board as part of its development of the City's legislative agenda, in a manner equivalent to any top-level administrative division of the City government.

Appendix E9: PAC Areas of Agreement on Board Membership

City of Portland
Police Accountability Commission
Areas of Agreement on Board Membership

Definitions

Panel	A subset of the oversight board’s full membership empowered to make decisions related directly to complaints alleging administrative misconduct by PPB sworn officers and supervisors.
Sub-Committee	A subset of the oversight board’s membership empowered to take actions as defined in the oversight board’s bylaws, subject to review by the full oversight board.
Law Enforcement Agency	Agencies that primarily employ police officers, corrections officers, or prosecutors. This includes county sheriffs, municipal police departments, police departments established by a university, state police, tribal police, and law enforcement agencies of the federal government. ³⁰⁰ It also includes district attorney’s offices. ³⁰¹ Finally, it includes correctional departments. Agencies which perform duties related to investigating allegations of officer misconduct or reviewing police policies and practices, whose main function is not to engage in policing activities, are not considered law enforcement agencies under this definition. ³⁰²

A. Size of the Board, and Panel Sizes

A1. Size of the Board

The initial oversight board shall have 33 members. The board may request a change to this number at any time.

A2. Alternates

The board shall have no less than 5 alternates, recruited from qualified board member applicants and from former members of the oversight board.

Alternates shall provide historical context, institutional memory, lived experience, and institutional or other expertise to the discussions of the oversight board.

Alternates may not serve on panels reviewing complaints, nor may they vote at the full oversight board. The oversight board may define other responsibilities and rights of alternates in its Bylaws.

A3. Panels

The oversight board may create panels for Hearings, for Due Process, and for Appeals.

³⁰⁰ From ORS 181A.010.

³⁰¹ From ORS 131.915.

³⁰² Terminology taken from ORS181A.010, which defines such “civilian or community oversight boards, agencies or review bodies” as a “criminal justice agency”.

1. Hearings Panels

- a. Panels shall be no smaller than five board members.
- b. In more serious cases, including deadly force, these panels shall have no less than seven members.
- c. The panels shall be created to ensure diversity based on life experience, race, gender, ability, and other factors, including, if appropriate, whether members are nominated by different people or entities.

2. Due Process ("Loudermill hearings")

When discipline is imposed by the board, a panel made up of board members shall hold a separate due process ("Loudermill") hearing at the request of the involved officer. This panel shall be no smaller than five board members.

3. Appeals Panels

Appeals will be heard by a different panel of board members than heard the original complaint, except in cases in which the basis for the appeal is the discovery of new information. In either situation, this will be referred to as an Appeals Panel.

- a. If the basis for the appeal is the discovery of new information, members of the original Hearings Panel will form the Appeals Panel. If a member of the original panel is unavailable, a board member who was not part of the original hearing may be assigned to the hearing.
- b. If there is any other basis for the appeal, the oversight board shall create a new Appeals Panel, consisting of at least five members not on the Hearings Panel.

A4. Sub-Committees

The oversight board shall be empowered to create Bylaws that allow for the creation, management, and elimination of sub-committees.

Sub-committees must include at least five full members of the oversight board.

B. Qualifications and Selection Criteria

B1. Makeup of the Board

1. The Board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.³⁰³
2. Applicants who are members of communities that have been impacted by over-policing practices shall have preference in selection.³⁰⁴
3. The board shall have community members that have worked with populations directly affected by over-policing.³⁰⁵
4. Membership must reflect the diversity of Portland: ethnic, racial, age, gender identity, ability, professional and socioeconomic backgrounds. Geographic diversity may also be considered.

³⁰³ From Charter 2-1002.

³⁰⁴ From National Association for Civilian Oversight of Law Enforcement

³⁰⁵ <https://cops.usdoj.gov/RIC/Publications/cops-w0952-pub.pdf>

5. The board shall have members who have experience doing community outreach. It is important to center the voices of the community when implementing the oversight board.

B2. Subject Matter Expertise

1. The board shall include people experienced with the police accountability experience, legal knowledge (public defense lawyers, civil rights lawyers), and with advocating for and providing services to houseless community members.
2. The board may include members who have experience with conducting investigations, case review and auditing.
3. Other professional expertise shall also be considered.

B3. Restrictions

1. People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the board. People who were formerly employed by a law enforcement agency are not eligible for service on the board.³⁰⁶
2. Board Members cannot simultaneously be members of any other governmentrun advisory group related to police or policing.³⁰⁷
3. Board Members must have demonstrated support for police accountability and racial justice.

C. Recruitment and Appointment Process, including Representation

1. Members of the board shall live, work, play, attend school, or worship in the City of Portland for at least 12 months prior to their appointment.³⁰⁸
2. Board members, assisted by a community outreach staff member, shall be available to advance recruitment efforts for vacant board positions.
3. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term.³⁰⁹
4. Recruitment efforts for the board should include, but not be limited to, free or paid advertisements on television, radio, print, or digital media directed at the eligible public. Recruitment information should clearly state that these are not police bureau or full-time City of Portland positions.
5. At minimum, staff shall solicit applications to fill vacancies in the board's membership with help from the Office of Equity and Human Rights, the Office of Community & Civic Life, Neighborhood Coalition offices, Mayor and Council offices, other police-focused advisory committees, community organizations working on racial justice, mental health advocacy, and houseless organizing, nonprofits, other grassroots organizations, and the general public.³¹⁰ The applications of board applicants shall remain confidential to the extent allowable by law.

³⁰⁶ Charter Section 2-1003, "Restrictions on Board Membership."

³⁰⁷ Added by Commissioners based in part on public comment on 03-27-2023.

³⁰⁸ (12 month reference taken from the City of Rochester / definition of an eligible Portland volunteer taken from <https://www.portlandoregon.gov/civic/76209> - Office of Civic Life)

³⁰⁹ City Charter Section 2-1002.

³¹⁰ Adapted from City Code 3.21.080 A 1.

6. The board may create a nominating committee to refer applicants for board membership to the City Council for appointing.³¹¹ The nominating committee may include people other than current board members.
7. Applicants shall be screened for potential conflicts of interest.
8. The board's members shall be appointed by City Council. The Mayor, while not directly voting for the appointment of nominees, can forward any suggestions or concerns to the City Council.³¹²
9. Council shall review applications of nominees to the board and vote whether to approve each appointment within 45 days of receiving the nomination.³¹³

D. Member Support and Compensation

D1. Support for Individual Board Members

- A. The Oversight Board will be a unique type of volunteer service, different from most volunteer boards, committees, and commissions. Individual members shall face unique challenges, including time commitment, exposure to trauma, and risks to privacy and safety, associated with their service. The Board shall create systems supporting and protecting individual members.
- B. Members of the oversight board shall receive compensation for their services, to promote equity, access to membership, and ensure that the board is representative of the community at large.
- C. The oversight board shall allocate roughly 10% of its annual budget to individual board member support and compensation.³¹⁴
- D. The board shall regularly review details of its member support and compensation and revise as needed.

D2. Reimbursement for Expenses

The Board shall ensure that expenses associated with service on the board are not borne by individual Board members. This may include reimbursements or per diems. It may also include the Board directly providing the item or service.

- A. Reimbursable expenses, or up front expenses to the extent allowable by law, may include at minimum:
 - i. Travel
 - ii. Food
 - iii. Training, including Board-approved self-selected trainings by individual members
 - iv. Care services, including for child, adult, elder, and other care
 - v. Technology

D3. Financial Compensation

³¹¹ Adapted from City Code 3.21.080 A 2.

³¹² From San Diego City, in which the whole council approves their board's members.

³¹³ Adapted from City Code 3.21.100.

³¹⁴ Charter 2-1002, "The board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism."

- A. Members shall receive a stipend, no less than the maximum allowed under the federal Volunteer Protection Act (currently \$500/year), reflecting their duties and activities to support the board outside of meetings and hearings.
- B. The board shall provide financial compensation, in the form of a nominal fee, to board members on a per-hour basis for public meetings and other regular public services.
 - i. In accordance with the US Department of Labor’s Wage and Hour Division (WHD) , the hourly compensation for volunteer board members cannot be equivalent to a professional wage.³¹⁵ Accordingly, the hourly nominal fee shall not exceed 20% of the hourly compensation rate of City employees identified by the board as conducting the same type of work.³¹⁶
 - ii. The board shall review the rate of compensation annually, following the annual release of City compensation plans.
- C. The board shall ensure at least the same level of compensation for members serving in special or unique ways (including panels).
- D. Each member of the board may decline to receive financial compensation, or to receive a lesser amount, at their individual discretion.

D4. Other Support for Board Members

- Mental Health Support
 - i. Mental health support and services shall be provided free of charge to all board members.
 - ii. The board shall have access to the City employee assistance program, or choose other mental health service providers.

D5. Protection and Safety

The board shall ensure personal protection for individual board members.³¹⁷

- A. The board shall work to ensure that its meetings, hearings, and other activities are secure.
- B. The board may also provide, as needed, additional protection services to individual members upon request.

D6. Support and protections for Oversight Board service

The Oversight Board shall be empowered to advocate to other governmental entities (including the State of Oregon) for protections for oversight board members.³¹⁸ These protections may include, but are not limited to:

³¹⁵ U.S. Department of Labor Wage and Hour Division opinion letter, FLSA2007-3NA (Sept. 17, 2007), available at https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/2007_09_17_03NA_FLSA.pdf, which includes citations to the U.S. Code and federal administrative rules.

³¹⁶ “The Department will presume the fee paid is nominal as long as it does not exceed 20 percent of what the public agency would otherwise pay to hire a full-time coach or advisor for the same services.” US Department of Labor, Wage and Hour Division. FLSA2007-3NA, citing FLSA2005-51.

³¹⁷ Charter 2-1002, “The board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.”

³¹⁸ Charter 2-1002, “The board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences,

- A. The services provided by the board members being recognized by the State of Oregon as official services for excused absences from work as a service to the state/local government akin to jury duty.
- B. The board members being protected from prohibited acts by employers against board members.³¹⁹
- C. The ability to receive other benefits, such as health insurance (including medical, dental, and vision), life and disability insurance, and retirement support
- D. Board members being protected from unlawful employment practices regarding insurance.³²⁰
- E. Personal security, including protection of confidentiality of personal data and privacy for board members and applicants, as well as protection from harassment and threats.

E. Onboarding Process and Training

After Council appointment, members and alternates shall go through both training organized by staff and peer training with more experienced members.

1. Training organized by staff may be delivered by staff and/or by experts and affected parties, and may be combined as appropriate. Topics shall include, at minimum:
 - a. City training applicable to all members of City advisory groups
 - b. Training on public meetings and public records law
 - c. Training on confidentiality
 - d. Training about the Portland Police Bureau, including history
 - e. Training about the oversight board and staff, including history
 - f. Training about the oversight board's internal structure, including its Bylaws and other internal processes
 - g. Training about civilian oversight of law enforcement
 - h. Training about local history of overpolicing, including geographically specific training
 - i. Paperwork necessary to ensure access to City resources, including compensation and other support services
2. Peer Training
 - a. Appointees shall be assigned to one or more current full board members for peer training.
 - b. The oversight board shall establish a list of responsibilities and topics to be covered during peer training.
3. The oversight board shall review its own training structures and curriculum and is empowered to revise these on a regular basis.

F. Term Lengths and Renewability

1. Members of the oversight board shall serve terms of 3 years.

particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism."

³¹⁹ "ORS Chapter 10 ORS 10.090 Prohibited acts by employers against jurors; notice to jurors; remedy for violations."

³²⁰ Including if employers cease to provide health, disability, life, or other insurance coverage for an employee during times when the employee serves or is scheduled to serve on the board. "Akin to ORS 10.092 (1)(a)(b) Insurance coverage for employee during jury service, unlawful employment practices."

2. The oversight board will serve staggered terms.
 - a. New members can be onboarded by existing members.
 - b. The work of existing members is not interrupted, as one-third of members will onboard while two-thirds will continue to serve their terms.
3. Members whose term will expire can apply to renew their term ~3 months prior to the expiration date.
 - a. Three months gives the board and necessary staff time to plan to fill the vacancy.
4. Existing members can apply to renew their term twice, and will be considered for the position.
 - a. Applying will allow the board and necessary staff to evaluate the board member's renewal application.
5. To prevent a number of vacancies at a time, members whose terms have expired are welcomed to serve on the board until their replacement is appointed.
 - a. Members shall wait no more than three months until their replacement is found.
 - b. These members shall be given a definite timeline by necessary staff/board members.
6. Leave of Absence
 Leave of absence time shall be granted, if needed, for good cause, including-for issues related to physical or mental health.

G. Removal Requirements and Process

1. The board may request that the City Council remove a board member for good cause.³²¹
 - a. Good cause for removal includes:
 - i. Unexcused absences
 - ii. Excessive excused absences. Excused absences include unforeseen events, health reasons, being out of town, or missed meetings due to conflicts of interest³²²
 - iii. Major, undisclosed conflicts of interest
 - iv. Loss of eligibility: No longer meeting any of the requirements such as live, work, play, attend school, or worship in the City of Portland (as outlined in section C1).
 - v. Unmet minimum participation, or workload requirement
 - vi. Breach of confidentiality³²³
 - vii. Inactivity in board activities including subcommittee work or hearing, appeals, misconduct, or due process panel participation
 - viii. Failure to proactively engage in mandatory training within 6 months of appointment³²⁴
 - ix. Misconduct such as harassment, discrimination, and retaliation³²⁵
 - b. Other reasons for removal could include resignation, death, or incapacitation.

³²¹ From Charter 2-1002.

³²² Adapted from San Diego City, as well as City Code 3.20C1a(1)(c).

³²³ Adapted from City Code 3.20C1a(1)(c).

³²⁴ Adapted from San Diego City, as well as City Code 3.20C1a(1)(c).

³²⁵ Adapted from HRAR 2.02.

2. The Bureau of Human Resources shall investigate allegations of misconduct regarding board members, and communicate their findings to the oversight board. The Bureau of Human Resources may remove a member following their investigation and finding of misconduct.
3. Removal of a board member prior to the end of their term requires a vote of City Council or a decision of the Bureau of Human Resources.
4. A board member seeking public office shall resign their seat at the time they announce their candidacy or file their petitions, whichever happens first.³²⁶ The individual can choose to apply for the board if they no longer run for office or end their terms in elected office.

H. Internal Processes, including Quorum

1. The oversight board is empowered to write its own Bylaws covering its internal processes not addressed in law.
2. When making decisions about procedures, protocols, or other decisions affecting the full board, quorum shall be defined as a majority of seated members of the board.
3. For adoption of bylaws and other significant matters (including proposed removal of members), the quorum shall be two-thirds of the seated members of the board.³²⁷
4. Individual sub-committees of the board shall have a defined number of members, with quorum defined as a majority of said subcommittee members.
5. Quorum for panels of the board shall be a majority of the members of the panel.

³²⁶ From the Rochester Police Accountability Board.

³²⁷ Adapted from San Diego City and San Diego County, as well as City Code 3.21.080a.

Appendix E10: PAC Areas of Agreement on Oversight Staff

City of Portland Police Accountability Commission Areas of Agreement on Oversight Staff

The Police Accountability Commission is tasked with developing the functions of the new police accountability system in Portland, including the new community police oversight board. As part of ensuring the oversight board is able to complete its duties, the commission was tasked with defining the role of the Director and staff, budget, and position within the City. The Police Accountability Commission has developed the following Areas of Agreement on Oversight Staff. These agreements are not formal recommendations of the Police Accountability Commission, but will be built upon by the commission to create City Code recommendations for Council.

A. Bureau Director

A1. Qualifications / hiring process

A1a. The Board shall hire a Director [who] shall be appointed by, and serve at the will and pleasure of, the Board.³²⁸

A1b. Hiring process³²⁹

A1b1. Selection of the Director shall be done through a “community process led by the oversight board.”³³⁰

A1b2. The Board shall select the Director, in accordance with the City's human resource policies and rules and any other applicable laws, by the following process:

A1b2i. A subset of the Board (“Hiring committee,” which could be made up of Board leadership and/or others) shall work with the Director of the Bureau of Human Resources (BHR) or designee to create a job posting that comports with the necessary and desired qualifications for a Director;

A1b2ii. The Hiring committee shall work with selected community members to assess minimum qualifications by screening applications and resumes, and the committee shall select at least three candidates best qualified to interview;³³¹

A1b2iii. The full Board shall interview the candidates and the top scoring candidate will be moved forward;

A1b2iv. At that meeting or the next appropriate meeting, the full Board shall vote whether to hire the top scoring candidate.

A1b2v. If the top candidate is not appointed, then the Hiring Committee shall present the next top scoring candidate to the Board for consideration and a vote. The selection process shall continue as stated until the Board votes to appoint a candidate as the Director; this shall include reopening the recruitment process if none of the interviewed candidates are appointed.

A2. Authority / Duties

³²⁸ Portland City Charter 2-1005.

³²⁹ Adapted from Portland City Code 3.21.040.

³³⁰ From Denver.

³³¹ From Denver.

Commented [PAC 07-3124]: STAFF NOTE: To add reference to Charter text.

A2a. The Director shall manage the professional administrative staff and professional investigators, and make operational and administrative decisions.³³²

A2a1. The Director may appoint other personnel necessary to carry out the duties of the oversight bureau, keeping within the adopted budget.³³³

A2a2. The Director may delegate any or all appropriate duties or responsibilities to a designee.³³⁴

A2a3. The Director or designee shall conduct outreach to create a pipeline of employees for the Board by engaging people in impacted communities.

A2b. The Director shall ensure that a qualified staff person goes directly to the scene of officer deadly force incidents and other incidents which may involve police misconduct needing immediate attention.³³⁵

A2c. The Director shall adopt, make public, amend, and rescind rules and procedures required for the discharge of duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and recommendations.³³⁶ All such policies shall be sent to the Board for review and feedback before adoption.³³⁷

A2c1. The Director may provide input to the Board when the Board is writing its Bylaws, but the Board is not required to get approval from the Director.

A3. Performance reviews of the Director and other staff including removal

A3a. The Board shall conduct annual performance reviews and manage the Director.³³⁸

A3a1. The Board shall participate in performance reviews for the auditor/monitor/inspector-general and legal counsel, and may also participate in other reviews.

A3b. The Director shall serve at will and may be removed from office by a supermajority of the board.³³⁹ The decision of whether to remove the Director shall be at the Board's sole discretion and may be made for any reason.

A4. Qualifications

A4a. The Director shall be a person who is well-equipped to analyze problems of administration, and public policy, and shall have a working knowledge in criminal justice sufficient for the powers and duties of the office. Experience and knowledge should also include working with communities impacted by police misconduct.³⁴⁰

B. Staff Structure, qualifications, duties, and Board involvement in hiring

B1. Restrictions on Hiring

To maintain independence between the Board and the police, the Board shall not hire current

³³² From Portland City Charter 2-1005: "Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director as classified employees."

³³³ From Portland City Code 3.21.050

³³⁴ From Portland City Code 3.21.050

³³⁵ Adapted from "Civilian Staff Involvement" in Barriers and Best Practices document.

³³⁶ These would most likely be Administrative Rules issued by Bureau.

³³⁷ From Portland City Code 3.21.170 K and 3.21.090A.

³³⁸ From San Diego County.

³³⁹ [Portland City Charter §2-1005](#)

³⁴⁰ Adapted from Portland City Code 3.21.040 B.

and former police officers as staff.

B2. Auditor, Monitor, or Inspector-General with full access to Bureau records, training, and staff

B2a. The Director shall hire an auditor/monitor/inspector-general, who will be in charge of auditing records and other aspects of the accountability system.³⁴¹

B2b. Audits conducted by staff will include police practices, policies, training, and directives, including regular audits of police communications with the public (news releases, social media, etc.).

B3. Attorney(s) with local, state, and federal specializations

The Director shall hire legal counsel to provide legal advice for the Board and staff separate from the City Attorney's office.³⁴²

B4. Other positions recommended for the Board Staff

B4a. Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director.³⁴³

B4b. The Director shall hire part or full time staff members focusing exclusively or in combination on:

B4b-i. Policy work: Note that New York's policy unit does data analysis, includes lawyers, and makes monthly, semi-annual and annual reports.

B4b-ii. Mediation,³⁴⁴

B4b-iii. Investigation,

B4b-iv. Hearings support.

B4b-v. Records.³⁴⁵

B4b-vi. Outreach/Community Engagement.³⁴⁶

B4b-vii. Intra-governmental affairs.³⁴⁷

B4b-viii. Data analysis;³⁴⁸ to include demographics and disparities.³⁴⁹

B4b-ix. Equity and Inclusion.³⁵⁰

B4b-x. Public affairs/communications³⁵¹

B4b-xi. Personnel³⁵²

B4b-xii. Administrative Staff.³⁵³

B4c. Hiring of the following staff positions shall involve the Board members:

³⁴¹ Proposed in PAC's Agenda and Scope, found in San Francisco, Oakland and Seattle.

³⁴² based on Areas of Agreement from other jurisdictions, identified in Denver, Oakland, San Diego (County), San Diego (City) and Portland City Code 3.21.070 (P).

³⁴³ From Charter 2-1005; repeat of A2a.

³⁴⁴ From San Francisco.

³⁴⁵ From San Francisco.

³⁴⁶ Found in Washington, DC, New York, San Francisco.

³⁴⁷ From New York.

³⁴⁸ From New York.

³⁴⁹ Based on New York's Racial Profiling unit.

³⁵⁰ Suggested by San Diego City staff.

³⁵¹ From 3/13 meeting

³⁵² suggested by San Diego City staff.

³⁵³ From Charter 2-1005.

B4c-i Auditor/monitor/inspector-general.³⁵⁴

B4c-ii Legal counsel

B4d. The oversight system may reach outside city structures to complete its work.

B4d-i The Board or staff may consider working with law school faculty and/or students or other community resources.³⁵⁵

B4e. Advocates:

B4e1. The Board shall hire advocates to help complainants navigate their complaints.

B4e2. All advocates shall be trained both on culturally sensitive / competent support for complainants, AND on sexual assault / survivorship for community members, so that even if someone from the relevant group isn't available when a person calls in everyone can provide support.

B4e2i. The structure may involve paid staff with the above skills, mixed with volunteers.

Complainants can call in and ask for culturally competent / sensitive intake.³⁵⁶

B4e3. Advocates are required to receive continuing education.

B4e4. Advocates will assist the staff in delivering community education about the complaint process.

B4f. Investigators:

The Board shall hire an appropriate number of investigators to conduct intake investigations, full investigations and follow-up investigations as necessary. Workload shall be distributed to ensure timely investigations of all complaints.

B4g. Mediators

The Board shall arrange for paid professional mediators on an on-call, part-time or full-time basis.

B4h. Administrative Staff:

B4h1. The Director shall hire administrative staff as necessary for the Board's functioning, including to assist Board members.³⁵⁷

B5. Staff Training

B5a. Staff shall be trained on issues specific to their roles, such as:

B5a-i. PPB and Board policies and directives,

B5a-ii. Interviewing,

B5a-iii. Evidence,

B5a-iv. PPB patrol training and tactics,

B5a-v. PPB and Board operations,

B5a-vi. Legal issues including stops, frisks, and searches.³⁵⁸

B5a-vii. Trauma-informed service delivery, focused on interviewing and other community interactions.

B5a-viii. Cultural competency, anti-racism, anti-bias, and collaborative decision-making.

B5b. As a general matter, staff shall not seek administrative and legal guidance from the Police

³⁵⁴ In Oakland, the board hires this position.

³⁵⁵ From Albany, where Albany Law School faculty and students support the oversight system.

³⁵⁶ Based on Lines for Life.

³⁵⁷ Adapted from Charter 2-1005.

³⁵⁸ Each of these six items from New York.

Bureau, unless necessary to perform their duties.³⁵⁹

B5c. As a general matter, staff shall not be trained alongside administrative investigators at the Police Bureau, unless necessary to perform their duties.

B6. Staff qualifications

B6a. There may be a minimum number of years of experience required for positions such as investigators; it is not appropriate for that number to be more than five years.³⁶⁰

B6b. The oversight bureau should include as a preference in staff recruitment that candidates have experience working with community.³⁶¹

B6b-i. Other preferred background qualifications include candidates with public defense or civil rights backgrounds, investigative, policy, and/or management skills.³⁶² Investigative background can include Child Services, personnel, safety, housing, medical and insurance investigations, and other non-police agencies.

B6b-ii. Staff should also be versed in contemporary legal topics related to policing such as Critical Race Theory.

B7. Staff duties

B7a. Staff shall review all misconduct investigations to ensure they are complete before they are sent to the Board to make findings and determine discipline.³⁶³

B7b. Staff and community engagement

B7b-i. The oversight board shall conduct public education on the role of the oversight system and community members' rights,³⁶⁴ keeping the community informed of activities, how to file complaints and seek recourse in case of retaliation, and receive input.³⁶⁵

B7b-ii. A participatory public process is the goal, not a check-box. The public's input needs to be integrated into the Board's outcomes. Where appropriate, oversight staff shall train trainers who can go into specific communities and train in ways that work for those groups, in addition to the Board training the public at large directly.

B7b-iii. Staff shall set up community engagement events which may involve the Board members when available.

B7b-iv. The outreach shall be conducted in ways that are accessible in terms of language, abilities, and other considerations.

B7b-v. Communities to engage should include youth and community partners,³⁶⁶ immigrant communities including people of undocumented status, people with mental illness, and others negatively affected by policing.

B7b-vi. Outreach locations should include but not be limited to schools, libraries, community organizations, neighborhood meetings, and organizations serving the

³⁵⁹ Adapted from New York.

³⁶⁰ Adapted from New York.

³⁶¹ Suggested by Oakland oversight staff.

³⁶² Suggested by Oakland oversight staff.

³⁶³ In Seattle, this is the job of the Inspector-General.

³⁶⁴ Constitutional rights trainings are done in New York and San Francisco.

³⁶⁵ from San Diego City.

³⁶⁶ from Washington, DC

houseless population.³⁶⁷

B7b-vii. Community engagement includes discussions on how to improve police practices and policy which include soliciting community input.³⁶⁸ Policy discussion should also include local, state, and federal laws which are not necessarily police bureau policies.

B7b-viii. The oversight system shall conduct education on their activities for law enforcement personnel and bargaining unit representatives.³⁶⁹

B7c. Alone or in cooperation with other city agencies/bureaus, Board staff will also audit police surveillance and other technologies.

B7d. Relevant data from audits will be posted online including on online dashboards.

B7e. Staff shall train new Board members on bylaws and basic information and expectations using an organized curriculum. Continuing Board members will train the new members on other areas and mentor them as they get up to speed.

B7f. Appropriate investigative staff shall be available on-call to go directly to the scene of officer deadly force incidents and other incidents which may involve police misconduct needing immediate attention.³⁷⁰

B8. Supportive Services for Staffers:

B8a. Because police misconduct investigations are taxing emotionally and mentally, staff will be provided with mental health services.

C. Position and other logistics within the City

C1. Budget

C1a. The oversight body shall have a publicly disclosed budget. As per Charter 2-1004, “funding for the Board shall be proportional to be no less than 5 percent of the Police Bureau’s Annual Operational Budget.”

C1b. The board will have discussions in public about how to allocate its budget, and, at its discretion, may appoint an independent budget advisory committee from the community.

C1c. After evaluation of the budget, the oversight board/staff shall be able to request a larger budget allocation as part of the annual budget process.

C1c. The Director shall comply with the City’s purchasing procedures but shall have sole discretion in choosing staff persons, contractors and other employees and making other decisions about expenses.³⁷¹ The Board may require that the Director make certain hiring/purchasing decisions only with the Board’s approval.

C2. Office Location

C2a. The physical office of the Board shall be located outside of a Portland Police Bureau facility.³⁷²

C2b. The office shall not be in the same building as the Mayor, City Council, Portland police

³⁶⁷ Adapted from New York, which includes “housing authority”

³⁶⁸ From Chicago and Los Angeles County.

³⁶⁹ From Washington, DC.

³⁷⁰ Adapted from current IPR powers as noted in PAC Areas of Agreement on Barriers to Police Accountability, and Best Practices, in the Current System in Portland (10-06-2022).

³⁷¹ from Portland City Code 3.21.060 B.

³⁷² Charter 2-1006.

bureau employees, and any other agency that has a law enforcement or public safety component as part of its function.

C2c. The office shall not be in a space where security is provided by law enforcement.³⁷³

C2d. The office shall be in a location convenient for the public, including accessibility to public transit.³⁷⁴

C2d. The offices may be located in a private office space.³⁷⁵

C3. Where in the city's organizational chart is the Board housed?

C3a. The Board will be a standalone Bureau similar to Prosper Portland. It will not be housed in any other Bureau.³⁷⁶

C4. Suggested hours of operation

C4a. The Board's offices shall be open to accept complaints for longer hours than M-F 9 AM-5 PM, including early mornings, weekend times, and evenings.³⁷⁷

C4b. The Staff's working hours may be staggered to avoid overlong days but accommodate hours both for complaint intake and potential evening/weekend meetings of the Board.

³⁷³ Adapted from San Diego County.

³⁷⁴ from Portland City Code 3.21.060 A

³⁷⁵ Also found in Washington DC, Denver and Oakland.

³⁷⁶ Independent Police Review is also a standalone bureau (since July 2022). It will not exist after the new oversight board is fully functional.

³⁷⁷ Most City offices, including most of the City's current accountability system, operate between 8 AM-5 PM. For complainants with less flexible schedules, who often are lower- and middle-income individuals, this is a direct barrier to participation as well as to receiving information and updates. (from Barriers and best practices document, not needed as footnote, just here as a reference?) Expanded from New York/San Francisco-- from Officer Accountability areas of agreement.

Appendix E11: PAC Areas of Agreement on Reporting and Transparency

City of Portland Police Accountability Commission Areas of Agreement on Reporting and Transparency

City Charter requires that:

“The Board shall make provisions for regular and open meetings, public transparency and reporting on the Board’s activities.”³⁷⁸

In the context of public bodies, transparency is about “the public’s right to know the public’s business.”³⁷⁹

The Police Accountability Commission understands & uplifts the importance of transparency. Transparency builds trust between the agencies and the community. Transparency allows for the community to be engaged and support the work and evolution of the agencies.

Transparency ensures that police, the state, and governing bodies are held accountable and actionable to the community’s standards. Transparency invites all to participate and have access to the work and issues at hand.

The Police Accountability Commission identified several barriers to police accountability in Portland in 2022, including that “there is a current perception by both community members and law enforcement that the accountability system is opaque, unfair, and unjust.”³⁸⁰

In the current system, “by design, the lack of transparency bleeds into the inability to monitor for effectiveness, improvement, or challenges. The data that are available are limited and do not summarize the impact made to accountability.”

The PAC also considered the National Association for Civilian Oversight of Law Enforcement’s observation that “state laws already afford extraordinary protections to law enforcement officers and conceal extensive information regarding their work from the public,” and NACOLE’s recommendation for oversight independence, including that “oversight bodies [should] not keep secrets for law enforcement.”³⁸¹

The City Council mandated that the Police Accountability Commission define, in its organizational details:

“7. Transparency of the process: when will reports come back to Council, how will they be made, and what will they contain, will reports be made public, when will meetings be open to the public, and what information about individual investigations will be available to the public.”

The Commission’s recommendations, if implemented, will improve upon the current system by ensuring transparency in meetings, public ability to give input before decisions are made, regular reporting, access for the public to information about policing and police accountability (including raw data), and confidentiality where necessary for safety.

³⁷⁸ [Portland City Charter §2-1007](#)

³⁷⁹ From Eileen Luna Firebaugh’s 2008 assessment of IPR.

³⁸⁰ PAC Barriers and Best Practices, #8.

³⁸¹ PAC SMEs, A2.

A. Transparency in Meetings and Hearings

All meetings of the oversight board shall be open to the public, except when otherwise required. Meetings and hearings of the Oversight Board shall be subject to the Oregon Public Meetings Law, ORS 192.610 through 192.710.³⁸² Proper notice, agendas, meeting summaries, and meeting materials will be made available to the public in a timely way.

A1. Public Participation in Meetings

As stated above, the full oversight board will hold regular public meetings and offer time for community input, including through public comment, testimony or other means. Special meetings of the full oversight board or sub-committees may also be held. Consistent with relevant laws and the rules of the Board, hearings and meetings will be open to the public.³⁸³ Public comment will be allowed, at minimum, before key decisions are made.

A2. Oversight Board Support for Policing and Accountability Transparency

The Oversight Board will meet regularly with the staff Director, including during public meetings. The Oversight Board will regularly host the Chief of Police, Mayor, and other relevant officials at its public meetings.³⁸⁴

The agency Director will provide written updates at each full Oversight Board meeting with information on the status of agency investigations and of those conducted by the police bureau, if any, and other relevant updates about the Board and staff.

³⁸² Modified from City Code 3.21.090 A 1

³⁸³ Adapted from PAC Barriers and Best Practices, “Best Practices: Transparency.”

³⁸⁴ Adapted from PAC Areas of Agreement on Other Jurisdictions, G4.

B. Reporting to the Public and City Council

B1. Regular Reporting to City Council

The oversight board and agency will publish a written annual report with Executive Summary by a consistent date each year. The report will be presented at a public oversight board meeting with public comment and questions encouraged. Annual reports will also be presented at a public City Council session with oral testimony accepted.

The oversight board may also issue quarterly reports.

The Board shall hire a qualified staff member, a team, or independent expert(s) to review closed investigations on an ongoing basis pertaining to officer-involved shootings, deaths in custody, and uses of deadly force that do not result in death.³⁸⁵

The completed reviews shall be described in periodic reports available to the public and include case and investigative summaries, policy implications, recommendations for improvements in police and Oversight Board policies or practices.³⁸⁶

These deadly force reports will be presented to the public and City Council. Contemporaneous public testimony, including oral testimony, will be accepted at City Council sessions.

B2. Annual Report Required Contents

Overview

- Overview of the accountability system
- Vision, mission, and values
- Message from Board leadership or officers
- Message from executive director

About the Oversight Board and Agency

- Information and resources about oversight board
- Duties and powers of oversight board
- Processes, procedures, and definitions relevant to the agency's work, such as how complaints are processed and adjudicated
- Stages of complaint handling
- Member biographies
- Agency staff
- Training and Professional Development
- Organizational structure
- Board activities
- Summary of committee work

Policy

- Policy recommendations related to policies and practices, collective bargaining agreements, City ordinances, and state law
- The status and outcomes of any previous recommendations
- For any recommendations that have not been implemented, the reasons, with an emphasis on persistent issues not yet addressed by PPB and the City Council

³⁸⁵ Adapted from PAC Areas of Agreement on Structural Oversight, G1.

³⁸⁶ From PAC Areas of Agreement on Structural Oversight, G1.

- Analysis of closed cases for policy implications

Complaints of Alleged Officer Misconduct

- Complaints by year, quarter, allegations by unit, type
- Employees named in complaints, to the extent allowed by law and policy
- Information regarding uniformed personnel who were the subject of multiple complaints, complainants who filed multiple complaints, and issues that were raised by multiple complaints, to the extent allowed by law and policy;
- The number of named employees who have received two or more sustained complaints within one year, to the extent allowed by law and policy
- Cases, allegations, officer and complainant demographics, disaggregated by geographic area
- Investigations – full, expedited, etc.
- Findings, overturned findings
- Discipline imposed
- The number and percentage of cases that were appealed or otherwise challenged, and the number and percentage of these cases in which findings and/or discipline determinations were changed, and the nature of those changes
- The number and percentage of all complaints handled directly by frontline supervisors, referred for Supervisor Action, Management Action, training, or alternative resolution
- The number of times a Police Bureau employee failed to comply with the agency's request for an interview or for the production of documents, and the number of times a Police Bureau sworn employee failed to comply with a valid subpoena, and whether discipline was imposed for any such non-compliance
- The number, nature, and settlement amount of civil suits against PPB officers regardless of whether the City is a defendant in the litigation³⁸⁷
- Timeliness of complaint resolution
- Redacted case summaries
- Board actions by case number, date, and findings
- Trends related to officer history and complaint type as well as frequency, consistency, and adequacy of discipline imposed.
- Overall patterns and trends
- Death cases
- Mediations

Outreach / Satisfaction

- Information on outreach efforts including feedback received at community events, engagement with the public and with the Police Bureau
- Complainant satisfaction survey results

B3. Raw Data

Raw data shall be available for download, inspection, and analyses by members of the public. Publishing raw data on a regular basis promotes transparency and public confidence in both the law enforcement and civilian oversight agencies. Raw data shall include complaints, intake

³⁸⁷ Required in *US DOJ v. City of Portland* Settlement Agreement.

decisions, closure reasons, findings, discipline, complainant demographics, and complaint geographies.

Data sharing shall adhere to standards that prioritize the protection of Personal Identifiable Information (PII) of the complainant and applicable community members. Raw data available for download shall include an appendix describing data sources, data definitions, and other pertinent contextual information.

The Board will publicly report its findings, conclusions and recommendations coming out of misconduct case hearings.³⁸⁸

B4. Dashboards

Interactive dashboards shall be developed around the oversight data so that it can be visualized in different ways. Dashboards may display case statistics, open, closed statuses, sustained allegations, findings, and discipline. Dashboards shall provide filters to disaggregate data by race, ethnicity, geography, and other important categories to offer a nuanced look at the data. Communication through data dashboards shall prioritize accessibility and usability. When applicable, the Board and/or staff shall provide technical assistance, trainings, or webinars to help understand the data.

The Board may also display policy recommendations in a dashboard.³⁸⁹

B5. Accessibility

Any communications by the Oversight Board shall be written and archived with attention to accessibility and organization. Communication shall prioritize sharing with the public in language that is as clear and simple as possible. While language will be clear and concise, it will not come at the expense of omitting essential details. When appropriate, communication shall follow best practice in inclusive writing which can be referenced in the Office of Equity and Human Rights' writing guide.³⁹⁰ If necessary, this information may be stored on a website other than the City's website.

Populations most at risk of harm at the hands of police shall be prioritized in communication that is culturally specific, relevant, and easily digestible. These priority populations include (but are not limited to):

- People experiencing mental illness
- People with disabilities
- Black, Brown, Indigenous and people of color

These accessibility standards also apply to the storage, categorization, and archiving of information on the Oversight Board's website.

B6. Confidentiality

The Director shall protect the confidentiality of Board members, complainants, officers, or witnesses consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Director to carry out their duties, or to comply with applicable collective bargaining agreements, or the disclosure of records is directed by the District Attorney. Any party can waive their right to confidentiality upon request.

³⁸⁸ City Code 3.21.090 A 5.

³⁸⁹ Also look at Seattle dashboard for policy recommendations - <https://www.seattle.gov/community-police-commission/our-work/recommendations-tracker>

³⁹⁰ <https://www.portland.gov/officeofequity/documents/inclusive-writing-guide-2/download>

When considering a request for public records, the Director shall consult with appropriate Police Bureau personnel and obtain approval from the Police Bureau prior to disclosure of PPB records as required under the Oregon Public Records Law.
The Board can propose the release of otherwise-confidential information.³⁹¹

³⁹¹ From Other Jurisdictions, J6.

C. Information Distribution and Community Engagement

Agency staff and board members will widely distribute complaint forms in languages and formats accessible to the public, provide education on the importance of reporting complaints, and hold public meetings to hear general concerns about police and agency services. Police Bureau member business cards distributed to community members during police actions/encounters must include oversight agency contact information so that the public will know where to file complaints.

Appendix E12: PAC Definitions

Accountability

Short Definition

Accountability is a comprehensive system of checks and balances aimed at ensuring that when law enforcement fails to carry out their duties properly, including when their actions are damaging to other individuals or the community at large, they are held responsible through a fair and transparent process.

When is there accountability?

Accountability for a harm done to an individual and/or community occurs when:

- The harm that has been done is accurately described and addressed
- The person or entity that has caused the harm takes whatever steps are possible to heal the harm
- The person or entity that has caused the harm takes whatever steps are possible to prevent the harm from reoccurring in the future

Goals of Accountability

- To actively create and foster an environment where every member of the community is served equitably by the police, and the police work in an environment where misconduct is unacceptable and comes with clear and known consequences
- Ensuring the future safety and healing of the victim and the community by repairing the harm that has been caused, and deterring future harm from being caused;
- Creating an environment where policies which allow for inequitable policing are examined and changed to ensure true community safety

The goal of accountability is not punishment or retribution; accountability requires a fair, transparent, independent, and impartial system that all parties trust.

Independent Judgment

Short Definition

A demonstrable absence of real or perceived influence from law enforcement, political actors, and other special interests looking to affect the operations of the civilian oversight agency.

When is there independent judgment?

The oversight board will have independent judgment to make internal policy changes, as well as discipline decisions and policy recommendations for PPB, apart from the influence of any person or entity within or without the City of Portland.

This means that the Board shall not be influenced in its decision-making except in an advisory capacity by any other official or entity, including the Police Bureau, the City Attorney's office, the Risk Management Division, the Bureau of Human Resources, and the Portland Police Association.

The non-interference clause means that when the Board makes a decision under the authority of the Charter, other City officials and entities shall enact the will of the Board and refrain from any attempt to thwart the Board's decision. This non-interference clause extends to all people beyond the Board members themselves.

Goals of Independent Judgment

To enact the will of the voters, who approved Charter Section 2-1006: "The Board shall have authority to exercise independent judgment in performing all legally assigned powers and

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duties. The Mayor, City Council, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment."

In order to maintain legitimacy, an agency must be able to demonstrate the extent and impact of its independence from the overseen law enforcement agency — especially in the face of high-profile issues or incidents.

Appendix E13: PAC Areas of Agreement on Broader System

City of Portland Police Accountability Commission Areas of Agreement on Broader System

The Police Accountability Commission is tasked with developing the new police accountability system in Portland, including the new community police oversight board. As part of ensuring the oversight board and bureau can be effective in completing their duties, the commission was also tasked with determining appropriate involvement between the new system and other parts of City government, as well as relationships with other levels of government. The commission was also tasked with determining how implementation of the new system will impact parts of the current police oversight system in the City, including determining which parts will continue or cease to function, and how.

The PAC's proposed system will be bound by all relevant law and regulations, including at the federal, state, county, and city levels. It will be a part of the City of Portland government, with independent judgment guaranteed in the Charter.

It will also strive to have strong working relationships with many other layers of government as described below. As per the Areas of Agreement on Structural Oversight:

"The Board may officially endorse legislation/policy ideas and shall have the authority to testify in front of relevant government bodies and communicate its policy positions with employees and elected or appointed officials at any level of government."

The oversight board will make clear in its discussions with any level of government that it is representing its own views, and not serving as a representative of the City government.

A. The Oversight Board and City Government

A1. General Relationship with other parts of City government

- A. The oversight board will be a part of City government, subject to all laws, rules, and policies which affect City government generally, including the City Charter, City Code, and administrative rules such as Human Resources policy.
- B. The oversight board will supervise an independent bureau as part of its Charter-mandated "independent judgment," which includes non-interference in its required duties and roles from other parts of City government.³⁹² The Director will be a "Bureau Director" as defined by the Charter.³⁹³
- C. The board will strive to develop working relationships with other parts of City government to ensure its ability to participate in relevant City processes related to the tasks required of the oversight board by law or regulation. These include the Portland Police Bureau, Mayor, City Council, Bureau of Human Resources, City Attorney's Office, and Office of Government Relations.³⁹⁴

³⁹² [Portland City Charter § 2-1006 Independent Authority](#), See also: [Police Accountability Definitions](#)

³⁹³ [Portland City Charter § 2-1005 Professional Staff of the Board](#), See also: [Police Accountability Commission Areas of Agreement on Oversight Staff § C3a](#)

³⁹⁴ From [Areas of Agreement on Structural Oversight](#):

"The Office of Government Relations shall consult directly with the Board as part of its development of the City's legislative agenda, in a manner equivalent to any top-level administrative division of the City"

- D. The oversight board shall strive to maintain a working relationship with other parts of the City government, and work with those entities to ensure there is no duplication of names and titles, processes, and terminology. This process shall seek to avoid confusion and create clarity for the community.

A2. Impact of Oversight Board implementation on City advisory entities

- A. Many of the current advisory groups related to police and policing will not be directly impacted by implementation of the oversight board.
- B. The City has already determined that two of the remaining advisory groups related to police and policing, the Police Accountability Commission itself and the Citizen Review Committee, will conclude as part of oversight board implementation.³⁹⁵
- C. The oversight board and bureau shall strive to maintain a working relationship with other advisory committees related to police and policing. Representatives from the oversight board and other advisory committees will meet periodically in public to discuss emerging issues and policy concerns they have encountered in the course of their work. If meetings are not practical, at a minimum they will share by email or other means information on those topics among themselves. This information will be reported back to members of the various advisory committees. They may choose to create joint study committees to research those issues and develop joint recommendations.
- D. Framework for independent and voluntary incorporation
Other advisory groups related to police and policing, whose functions incorporate officer accountability and/or policy recommendations, may independently and voluntarily seek to conclude operations and request that the oversight board assume their duties.
 - i. This process would be initiated through mutual consent by the advisory group, the oversight board, and the bureau associated with the advisory group.
 - ii. Other details would be developed between the incorporated group, following their voluntary choice to pursue incorporation, and the oversight board.
- E. After the oversight board has been implemented, no sooner than two years after the Board has begun taking on complaints from the public (Transition Plan “Post-Transition Phase Day One”) it may undertake a review of all advisory groups related to oversight of police and policing, including communicating directly and transparently with volunteers serving on those groups, and may make recommendations to the Mayor and/or City Council regarding “how the different aspects of the current oversight system will

government.”

“The Bureau of Human Resources shall reserve, during negotiations with collective bargaining units representing PPB sworn officers and their supervisors, at least two seats for representatives chosen by the Board. The City Attorney shall consult with the Oversight Board during the collective bargaining process and inform the Board as soon as practicable regarding any potential changes to the police contract(s). The Board’s ability to make recommendations shall include proposals for the collective bargaining contracts.”

³⁹⁵ The CRC will conclude on a schedule to be defined in the PAC-proposed Transition Plan.

function, or cease to function,” including “how and when to wind down the current oversight systems.”³⁹⁶

- F. Prior to establishing any new advisory groups related to police or policing, the Mayor and/or City Council shall discuss the proposal with the oversight board and give sufficient time for a response.³⁹⁷

A3. Impact of Oversight Board implementation on City staff entities

- A. Portland Police Bureau (PPB) Internal Affairs
 - i. The oversight board will investigate most complaint types which currently are handled by PPB Internal Affairs.³⁹⁸
 - ii. The only complaint types which currently go to PPB Internal Affairs that would not go to the oversight board are complaints filed by Bureau employees, about conduct not affecting any community member, where the complainant officer does not choose to have the board investigate.
- B. Other parts of the Portland Police Bureau
 - i. The oversight board and bureau will strive to maintain a working relationship with the PPB Professional Standards Division, including staff working on the Employee Information System (EIS).

B. Relationship with County Government

B1. District Attorney

- A. The board shall interact as needed to the extent allowable under law with the Multnomah, Clackamas, and Washington County District Attorneys’ Offices, including information sharing where appropriate. To ensure officers’ constitutional rights, in no case shall compelled testimony from officers be transferred to DAs’ offices.
- B. In the rare event that the Board or staff issue a subpoena which needs to be enforced, the board shall apply to the appropriate County authority for the enforcement of a subpoena or to impose the penalties for failure to obey a subpoena or order.^{399,400}
- C. The oversight board and bureau shall exchange information with the District Attorneys’ Offices, including seeking access to court records and case information pertinent to complaints under investigation.
- D. The oversight board, through legal counsel shall work with the District Attorneys’ Offices to determine appropriate disclosure of public records, and protection of confidential information, including through clarifying or appealing to the DAs’ offices.

B2. Exchange of Information With / About Other Law Enforcement Agencies

³⁹⁶ [Portland City Council Resolution 37548, Exhibit A, Transition Plan](#)

³⁹⁷ Portland City Charter, [Ballot Measure 26-228 § 2-103](#), (effective January 1, 2025).

³⁹⁸ [Police Accountability Commission Areas of Agreement on Officer Accountability, §A6](#)

³⁹⁹ [Portland City Charter § 2-1007\(a\) Powers of the Board](#)

⁴⁰⁰ [Police Accountability Commission Areas of Agreement on Officer Accountability, §B2N](#)

The oversight board and bureau shall strive to maintain a working relationship, to the extent it benefits the board's mission, with Multnomah, Clackamas, and Washington Counties' Sheriff's Offices, (county-run) jails, and with oversight groups for these entities.

B3. Other County Relationships

- A. The oversight board and bureau shall exchange information pertinent to complaints under investigation with the counties' Medical Examiners' Offices.
- B. The oversight board and bureau may seek membership for a representative in Multnomah County's Local Public Safety Coordinating Council (LPSCC), to assist with developing working relationships and exchanging information in pursuit of oversight goals and responsibilities.

C. Relationship with State Government

C1. Obligation to Follow State Law

The oversight board is obligated to follow all applicable state laws and rules, including the Oregon Constitution (and protecting the rights of all parties under the state constitution), collective bargaining agreements (as per the Public Employees Collective Bargaining Act), public records and public meetings law, and as of July 1, 2025, statewide discipline guides.⁴⁰¹

C2. Exchange of Information With / About Other Law Enforcement Agencies

- A. The oversight board and bureau shall strive to maintain a working relationship, to the extent it benefits the board's mission, with the Oregon State Police (OSP), including the State Medical Examiners Office, as well as the Department of Corrections (DOC), (state-run) jails, prisons, and detention centers, and with oversight groups for these entities.
- B. The oversight board and bureau shall also strive to maintain a working relationship with the Department of Public Safety Standards and Training (DPSST), including sharing information about cases in which officers were found to have committed misconduct and cases in which a finding of "training failure" was reached.⁴⁰² This relationship shall benefit the community by promoting improvement in training and performance of officers.

C3. Employment Relations Board

The oversight board and bureau shall strive to maintain a working relationship, to the extent it benefits the board's mission, with the state Employment Relations Board (ERB), to understand arbitration and its role in the process of addressing allegations of officer misconduct.

C4. Support of state court consideration of cases involving officers or incidents subject to complaint

The board shall interact as needed to the extent allowable under law with State courts and prosecutors, including information sharing where appropriate. To ensure officers' constitutional rights, in no case shall compelled testimony from officers be transferred by the oversight board.

D. Relationship with Federal Government

D1. Obligation to Follow Federal Law

⁴⁰¹ The City of Portland's current discipline guide was bargained with the Portland Police Association. The state determined that statewide discipline guides created by the LESC would take effect after the expiration of current bargained discipline guides in each jurisdiction that had bargained one. Portland's collective bargaining agreement with the PPA expires on June 30, 2025.

⁴⁰² [Police Accountability Commission Areas of Agreement on Officer Accountability, § C1\(B\)\(i\) and C1\(C\)\(ii\).](#)

The oversight board and bureau are obligated to follow all federal laws, including the United States Constitution (and protecting the rights of all parties under the US Constitution), and the *USDOJ v. City of Portland* Settlement Agreement, including any amendments. Implementation of the oversight board is obligated to follow the Settlement Agreement, Paragraph 195.

D2. Exchange of Information With / About Other Law Enforcement Agencies

The oversight board and bureau shall strive to maintain a working relationship, to the extent it benefits the board's mission, with federal law enforcement agencies, including the US Marshals or any (federal-run) jails, prisons, and detention centers, and with oversight groups for these entities,

D3. Support of federal court consideration of cases involving officers or incidents subject to complaint

The board shall interact as needed to the extent allowable under law with federal courts and prosecutors, including information sharing where appropriate. To ensure officers' constitutional rights, in no case shall compelled testimony from officers be transferred by the oversight board.

E. Relationship with other municipalities and governments

For those agencies not addressed in other sections of this plan, the oversight board and bureau shall also strive to maintain a working relationship with law enforcement entities outside of Portland, including but not limited to those municipalities whose law enforcement officers may interact with community members in Portland, TriMet police, and private security agencies serving in public spaces while acting in an official or unofficial law enforcement capacity.

F. Relationship with Other Oversight Entities

The oversight board should seek to be a model for other jurisdictions that review and adapt their own oversight systems.

The oversight board and bureau shall also strive to maintain a working relationship with oversight entities outside of Portland, to exchange information, best practices, and solutions to barriers faced by entities working on law enforcement oversight.

The oversight board and bureau shall strive to maintain a working relationship with regional, national, and international groups focused on law enforcement oversight, to have access to trainings and conferences that can help the oversight board perform its duties more effectively.⁴⁰³

⁴⁰³ [Police Accountability Commission Areas of Agreement on Board Membership, §D2\(A\)\(iii\)](#)

Appendix E14: PAC Areas of Agreement on Board and Bureau Name

City of Portland Police Accountability Commission Areas of Agreement on Board and Bureau Name

Name of the community police oversight board

The City of Portland Charter (Section 2-10) authorizes and creates a community police oversight board, and notes that the name of the Board will be established in City Code.⁴⁰⁴

The name of the oversight board created under Charter 2-10 is the **Community Board for Police Accountability (CBPA)**.

Name of the bureau

The City of Portland Charter (Section 2-10) authorizes and creates a staff reporting to the community police oversight board, headed by a Director who is a Bureau Director. The Director and all other staff shall comprise a City Bureau.⁴⁰⁵

The name of the oversight bureau reporting to the Director authorized under Charter 2-10, is the **Office of Community-based Police Accountability (OCPA)**.

⁴⁰⁴ [Portland City Charter §2-1001](#).

⁴⁰⁵ [Portland City Charter §2-1005](#).

**City of Portland
Police Accountability Commission
Transition Plan**

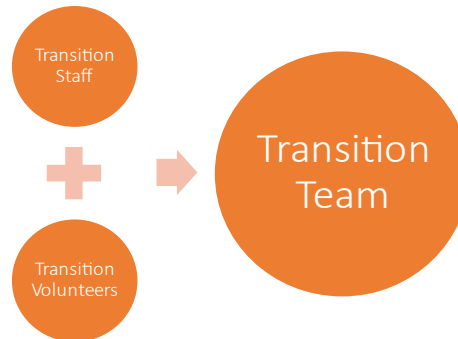
A. Definitions and Overview of Timeline

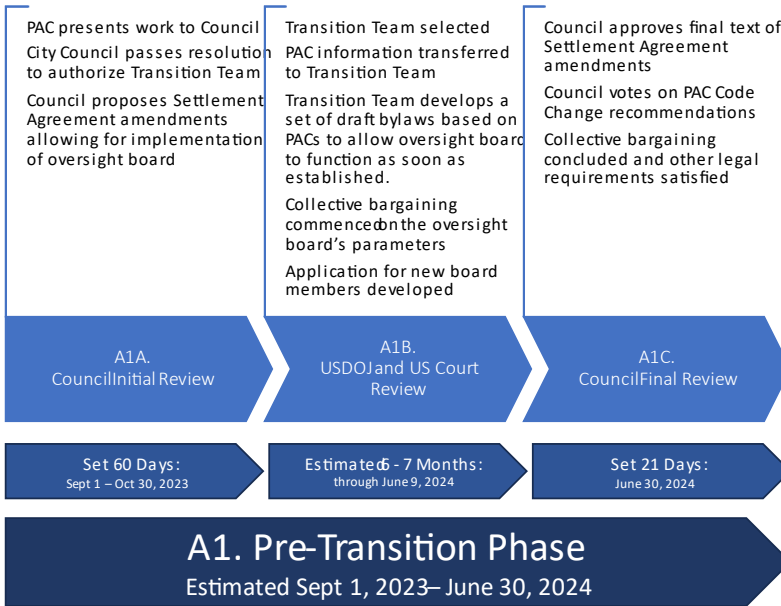
Transition Team

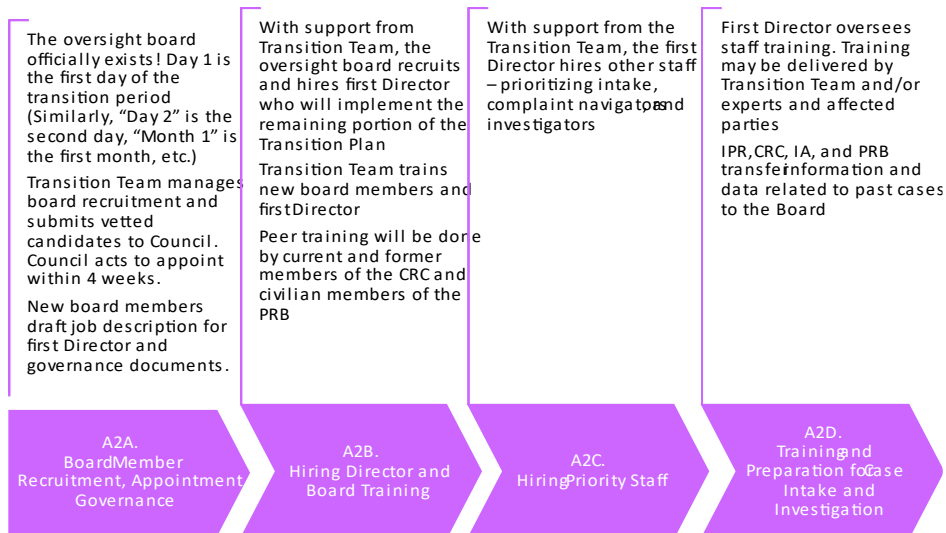
Transition Team – the collective term for transition staff and transition volunteers.

- **Transition Volunteers** – Up to twelve volunteers working on setting up the Oversight Board prior to the appointment and training of the initial 33 board members

- **Transition Staff** – At least three paid City of Portland employees, led by a transition manager, working on setting up the oversight board and bureau prior to the hiring and training of its first Director

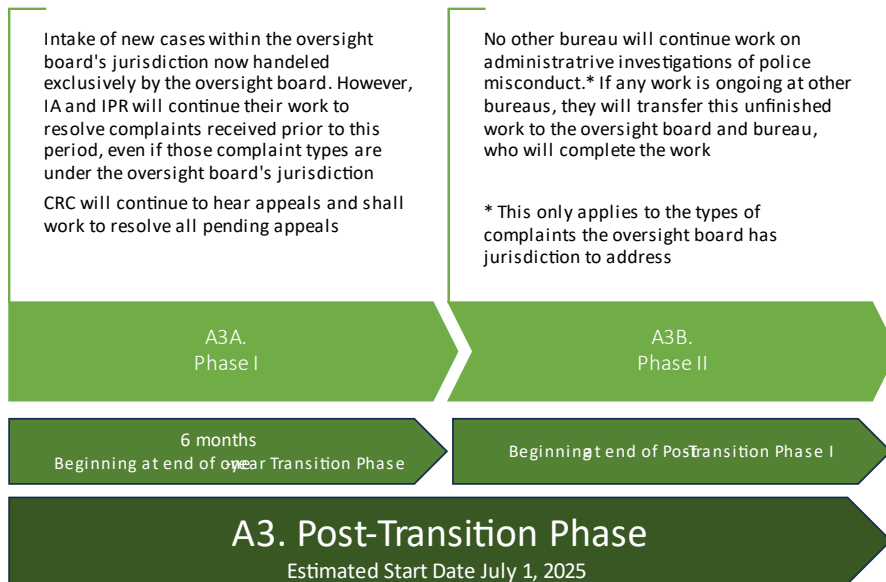






A2. Transition Phase

Set 1 - Year Maximum; Estimated Start Date July 1, 2024



B. Transition Team and Budget Access

B1. General

- A. The initial implementation of the Transition Plan will be managed by a Transition Team that includes staff and volunteers.
- B. The Transition Team shall assist in initial Oversight Board staff and member training and initial organizational tasks. The Transition Team shall, as outlined below, coordinate City Council appointment of the initial 33 Oversight Board members and alternates, so that appointments may be made promptly upon creation of the Oversight Board.
- C. Many of the necessary tasks for board implementation can begin prior to the beginning of the Transition period. These tasks may include:
 - i. Developing internal City capacity for the recruitment process, drafting board application, ensuring legal compliance
 - ii. Coordination among bureaus
 - iii. Creating necessary City infrastructure for future board members (having IT permissions, protocols, and files in place)
- D. The Transition Team shall be selected during the second part of the Pre-Transition phase defined in Section A1B.
- E. The City Attorney's Office shall ensure that member(s) of the Transition Team are present for any mediation with the US Department of Justice related to the implementation of the Oversight Board. The Bureau of Human Resources shall ensure that member(s) of the Transition Team are present for any negotiation and mediation

with collective bargaining units related to the implementation of the Oversight Board. These responsibilities will be transferred to the Director upon their hiring and completion of training, and Board members, upon their appointment and completion of training.

- F. The Transition Team shall provide a set of draft bylaws based on the PAC's to allow the new Board to function as soon as it is established. Once the Board has approved the Director's job description, they shall adapt these documents as desired or create new ones.

B2. Transition Staff

- A. During the first part of the Pre-Transition phase defined in Section A1A, the City Council or its designee shall create a transition staff of at least three people to facilitate the early stages of the Transition period, prior to a Director being hired. This transition staff shall be managed by a City of Portland employee, referred to as the "transition manager," who is preferably someone familiar with the work of the Police Accountability Commission (PAC).
- B. At the Director's discretion, transition staff positions may be transferred to the Oversight Bureau following the hiring and training of the Director. Remaining transition staff positions will conclude after the appointment and training of the Director.

B3. Transition Volunteers

- A. The transition staff shall appoint a group of up to 12 transition volunteers who recuse themselves from the initial appointment of board members. These volunteers will be drawn from former members of the PAC and current or former members of the CRC and any other volunteer entity being concluded as part of Board implementation.
- B. The transition volunteer group shall conclude after the appointment and completion of training of the first Oversight Board members, but these volunteers should remain available as a resource to new Oversight Board members.

B4. Budget Access

- A. To accomplish the timeline outlined in this document, several factors are reliant on having necessary budget available to staff the transition. The Oversight Board will have access to its budget on Day One of the Transition period (Section A2A), but due to potential delays in the timeline if funding is delayed, the transition would be more feasible if a budget allocation is available prior to that date. If funding is not in place, work cannot begin until Day One, and the work outlined here will be significantly delayed. These delays could place the City out of compliance with the Charter and potentially the Settlement Agreement.
- B. The timeline outlined in the recommendations of this document assume that necessary budget and support will be in place to accomplish the transition. "Necessary budget and support" includes, at a minimum:
 - i. Authorization for three staff positions including the transition manager.
 - ii. Funding for outreach, recruitment, technology, and transition staff, of at least \$700,000 of the Oversight Board's budget allocation for the transition fiscal year(s). Access to this funding will be made available to the transition staff upon their appointment; PAC recommends that it occurs during the Pre-Transition period (A1).

- C. Remaining portions of the Oversight Board’s budget allocation for the fiscal year(s) in which the Board members are appointed and the Director is hired would remain accessible to the Board and Director.

C. Initial Member Appointment and Training

C1. Member Appointment

- A. Applications for Board Membership should be available during the Pre-Transition period, but no later than Month One of the Transition (A2A). Transition staff will manage the application process and the Transition Team will conduct outreach to the community.
- B. The Transition Team will review applications and will submit to the City Council a set of eligible candidates to consider.
- C. The PAC requests that Council determine appointees within 4 weeks. The City Council shall review the applications and then will notify transition staff of desired appointees so that appointments can be placed on the Council Agenda at the next opportunity. Appointments made before January 1, 2025, will be made by the full City Council, including the Mayor and four Commissioners; appointments made after January 1, 2025 will be made by the vote of the 12 members of the City Council.⁴⁰⁶
- D. The application may remain open, and the Transition Team will continue to review applications and submit new candidates to City Council regularly to fill any member positions unable to be filled in the first appointment, or to appoint alternates.
- E. Board members appointed during the Transition period will be appointed for terms lasting the remainder of the Transition period and an additional 1, 2, or 3 years, such that one-third of the board (11 members) will have terms of one year, another one-third two years, and another one-third three years. Board applicants may select their preference of term length and the transition team will do their best to accommodate first or second preference in the batch of applicants sent to City Council; the Transition Team shall also prioritize Board member selection requirements in each group of 11 recommended appointees to ensure that each group reflects the diversity outlined in the Areas of Agreement on Board Membership.⁴⁰⁷
- F. Board members will begin to receive compensation and other forms of support upon appointment.⁴⁰⁸ It is anticipated that different parts of the member support structure will take effect at different times, with some portions not taking effect until after the Transition period.

C2. Initial Board Member Training

- A. After Council appointment, Board members and alternates shall go through training.⁴⁰⁹
- B. Training that will normally be organized by staff may be delivered utilizing a trauma-informed approach by Transition staff and/or by experts and affected parties, including but not limited to:⁴¹⁰

⁴⁰⁶ City Charter effective January 1, 2025, Ballot Measure 26-228, Section 2-102.

<https://www.portland.gov/sites/default/files/council-documents/2022/attachment1-final.pdf>

⁴⁰⁷ PAC Areas of Agreement on Board Membership §B1

⁴⁰⁸ PAC Areas of Agreement on Board Membership §D3; §D4

⁴⁰⁹ PAC Areas of Agreement on Board Membership, §E-1

⁴¹⁰ PAC Areas of Agreement on Board Membership, §E-1

- i. Civil rights attorneys
 - ii. Public defenders
 - iii. Civil rights activists
 - iv. Members of overpoliced communities (such as BIPOC, immigrant communities, people with mental illness/addiction recovery, houseless community)
- C. Peer Training, which normally will be conducted by one or more existing board members, will be done by current and former members of the CRC and civilian members of the Police Review Board (PRB).⁴¹¹ After completing training on handling confidential materials, the Oversight Board members will review case files in CRC appeals and PRB cases, consider the findings in those cases, and attend the hearings (without interfering) as part of their training on how to review complaints.

D. Initial Staff Hiring and Training

D1. Director Hiring

As soon as the Board members have been appointed by City Council, the search for a Director will commence. A draft job listing will be prepared by the Transition Team for review and approval by the Board. Then, transition staff will post the job and conduct community outreach, so the community is aware of the position. Transition staff shall share these applications with the Board. The Board will then follow the procedure from PAC's Areas of Agreement on Oversight Staff to hire the Director.⁴¹²

D2. Priority Staff Hiring During Transition ~~period~~Period

- A. Once the Director is hired, they will work with the Transition Team to recruit staff applicants for the oversight bureau.
- B. The Director will prioritize the hiring of intake staff, navigators, and investigators to ensure the oversight board is able to begin receiving and investigating complaints by the end of the Transition period.⁴¹³
- C. During the Transition phase, the Director may also wish to hire the Auditor/Monitor/Inspector General and legal counsel to ensure a smooth ramp-up. If so, as outlined in the PAC Areas of Agreement on Oversight Staff, the Board shall be involved in hiring those positions.⁴¹⁴

D3. Staff Training

- A. The Transition Team and Oversight Board are responsible for ensuring the Director undergoes training upon hiring.
- B. The Director is responsible for ensuring all other oversight bureau staff undergo required training upon hiring.⁴¹⁵

E. Transfer of Files and Information from Current Systems

E1. Portland Police Bureau and other City of Portland transfer of information

⁴¹¹ [PAC Areas of Agreement on Board Membership, §E-1](#)

⁴¹² [PAC Areas of Agreement on Oversight Staff, §A-1b](#)

⁴¹³ DOJ Settlement Agreement §XI-195b <https://www.portland.gov/police/doj/documents/doj-settlement-agreement-revised-feb-28-2023/download>

⁴¹⁴ [PAC Areas of Agreement on Oversight Staff, §B-4c](#)

⁴¹⁵ [PAC Areas of Agreement on Oversight Staff, §B5](#)

- A. The Oversight Board will have authority to obtain information to provide an administrative response to allegations of misconduct, and to conduct oversight effectively. The methods for obtaining information will include, but will not be limited to, compelling testimony, subpoena power, and access to police records, data, and body camera footage.⁴¹⁶
- B. Necessary members of the transition team, after training on confidentiality, will have access to information and data related to cases involving civilians reviewed by Independent Police Review (IPR), Internal Affairs (IA) as applicable, the Police Review Board (PRB), and the Citizen Review Committee (CRC), and any other appropriate entities only as needed to prepare trainings for incoming board members.
- C. During the Transition period, after training on confidentiality, the incoming board members will have access to all information and data related to cases involving civilians reviewed by IPR, IA as applicable, the PRB, the CRC, and any other appropriate entities.

E2. Transfer of information from the Police Accountability Commission

- A. All information and data collected by the PAC will be transferred to the Transition Team upon creation of the Transition Team. All information and data collected by the PAC and the Transition Team will be transferred to the Oversight Board upon creation of the Oversight Board. In the event the Transition Team and the Oversight Board exist concurrently, all information and data collected by the Transition Team will be made available to the Oversight Board on an ongoing basis.
- B. The PAC Values and Goals, PAC Bylaws, and PAC Community Engagement Framework will be given to the Oversight Board members as model documents to assist in creation of the Oversight Board's internal process documents.

E3. Information from IPR, IA, PRB, and the CRC

- A. During the Transition period, Independent Police Review (IPR), Internal Affairs (IA), the Police Review Board (PRB), and the Citizen Review Committee (CRC) will transfer to the Oversight bureau all information and data from previous complaints and misconduct investigations. The transfer will follow all applicable local, state, and federal laws and policies regarding privacy and transparency.
- B. If the transfer of information and data from these agencies cannot be completed in the Transition period, the Oversight bureau will work with the IPR, IA, PRB, and/or CRC to create a plan to transfer information and data within a reasonable timeframe not to exceed one additional year.

F. Post-Transition Period

F1. Independent Police Review

- A. At the beginning of the Post-Transition period, IPR will no longer accept *new* complaints. During Phase 1 of the Post-Transition period, IPR will continue to work through any complaints accepted prior to the end of the Transition period. IPR shall work to resolve all pending complaints by the end of Phase 1 of the Post-Transition period.
- B. As IPR's work winds down, the IPR Director, along with the Bureau of Human Resources, will determine how to reduce the size of the organization to match the workload.⁴¹⁷ The

⁴¹⁶ [Police Accountability Commission Areas of Agreement on Access to Information](#)

⁴¹⁷ City Proposal Under Paragraph 195(a) of the DOJ Settlement Agreement

Director of the Oversight Bureau may at their discretion hire the Director of IPR on staff and allow them to complete work for the old system while the new one ramps up.

- C. The Director shall ensure that IPR staff have preference in hiring for employment at the new oversight bureau, as long as they meet all additional criteria for oversight bureau employment.⁴¹⁸ When hiring current IPR employees for positions at the oversight bureau, the Directors of the oversight bureau and of IPR shall coordinate, so that IPR maintains continuity of operations.⁴¹⁹

F2. Citizen Review Committee

- A. The CRC will continue to hear appeals during Phase 1 of the Post-Transition period. CRC shall work to resolve all pending appeals by end of Phase 1 of the Post-Transition period.
- B. During Phase 1 of the Post-Transition period, the City will maintain full membership of the CRC so that they can hold hearings and participate in PRB hearings where CRC members are required.
- C. CRC members may serve on both the CRC and on the Oversight Board during the Transition and Post-Transition Periods, provided they meet all other necessary criteria.

F3. Police Review Board

- A. During Phase 1 of the Post-Transition Period:
 - i. The PRB will continue to hear cases initiated during or prior to the transition period. PRB shall work to resolve all pending cases by the end of Phase 1 of the Post-Transition period.
 - ii. IPR shall ensure that the pool of PRB community members shall be sufficient to hold Police Review Boards. PRB community volunteers may also concurrently serve on the Oversight Board, provided they meet all other necessary criteria.

F4. Internal Affairs

At the beginning of the Post-Transition period, the Oversight Board will accept those types of complaints currently addressed by Internal Affairs, but which the new system directs to the Oversight Board.⁴²⁰

F5. Transfer of Active Cases Received Under Old System

- A. At the end of Phase 1 of the Post-Transition period, all cases pending before IPR, PRB, or the CRC that are within the jurisdiction of the Oversight Board shall be transferred to the Oversight Board for resolution. The Oversight Board shall prioritize prompt resolution of these cases.
 - i. To the extent allowable by applicable law and collective bargaining agreements, the Oversight Board shall apply *its* procedures and standards to resolution of cases transferred from IPR, PRB, or CRC at the end of Phase 1 of the Post-Transition period. PAC strongly recommends this approach, because it is in line with the values of the Charter Amendment and addresses the issues identified by the PAC in its Fact-Finding Phase.

⁴¹⁸ [PAC Areas of Agreement on Oversight Staff, §B6-b.](#)

⁴¹⁹ DOJ Settlement Agreement §XI-195 <https://www.portland.gov/police/doj/documents/doj-settlement-agreement-revised-feb-28-2023/download>

⁴²⁰ [PAC Areas of Agreement on Officer Accountability, §A-6b](#)

- ii. If the City is not able to implement this recommendation, and the Oversight Board is legally required to apply legacy procedures and standards to transferred cases, the Board shall create a separate, transitional hearings division to ensure that the transferred complaints are handled in accordance with such requirements. The transitional hearings division shall conclude as soon as all transferred cases are resolved.
- B. IPR and CRC shall conclude their operations within a reasonable period of time in Phase 2 of the Post-Transition period. PRB shall similarly conclude its operations relevant to cases within the Oversight Board's jurisdiction during this time frame.

Appendix F2: Recommendations to the City for Settlement Agreement Amendments

The PAC identified portions of the Settlement Agreement between the United States Department of Justice and the City of Portland that would need to be changed during the transition from IPR to the Community Board for Police Accountability (CBPA) and the Office of Community-based Police Accountability (OCPA).

The PAC also recommended that as part of the ongoing conversations during the period of DOJ/Court Review, "the City Attorney's Office shall ensure that member(s) of the Transition Team are present for any mediation with the US Department of Justice related to the implementation of the Oversight Board." This is not a proposed change to the Settlement Agreement, but a PAC recommendation as to the process for those changes.

The following are recommended changes to the Settlement Agreement. This list of proposed changes is not exhaustive, and the PAC recognizes the City may need to propose other changes.

- The transfer of active cases received under the old system (Settlement Agreement paragraph 195)
 - The Settlement Agreement currently mandates that IPR conclude its work and resolve all active cases within one year of the Council establishing the CBPA. The PAC's transition plan as written would require that this be changed to allow the transfer of remaining cases to the new oversight system, to prevent IPR remaining active to complete cases which are opened shortly before the transition is completed.
 - From the Transition Plan: At the end of Phase 1 of the Post-Transition period (approximately one year after Council establishes the Board), all cases pending before IPR, PRB, or the CRC that are within the jurisdiction of the Oversight Board shall be transferred to the Oversight Board for resolution. The Oversight Board shall prioritize prompt resolution of these cases.
 - In the Transition Plan, the PAC further suggests that to the extent allowable by applicable law and collective bargaining agreements, the CBPA shall apply its procedures and standards to those transferred cases.
- Settlement Agreement Section II: Definitions – At minimum, changes should include adding the definitions for the Community Board for Police Accountability (CBPA) and the Office of Community-based Police Accountability (OCPA), and noting that since 2022, the Auditor is no longer involved in PPB oversight.
- Settlement Agreement Section VIII: Officer Accountability will need to add language about the CBPA and OCPA in appropriate areas, and make changes where the new process differs from the IPR system. Additionally, Paragraph 140 should include methods to communicate to the complainant other than mail, email/text, and fax.
- Settlement Agreement Section X: Agreement Implementation and Enforcement should be reviewed for accountability measures related to the new system.

- The PAC has recommended that the timeline for investigations be changed from 180 days to 183 days to better approximate a 6 month time period (Settlement Agreement paragraph 121 & ff).

Appendix G1: Recommendations to the Board for Board Bylaws

The PAC's City Code recommendation includes (35A.050H):

"The Board shall have the authority to adopt bylaws, and as part of developing bylaws, it will decide, among other things:

1. whether or not to establish a chairperson, co-chairs, or other leadership positions;
2. the role of Board alternates;
3. procedures that allow for the creation, management, and elimination of sub-committees;
4. voting thresholds for the full Board, sub-committees, and panels (preliminary, hearings, disciplinary, and appeals); and
5. any other internal Board procedures, including but not limited to those 76 identified for elaboration in this Code and not otherwise addressed by law."

The PAC has also recommended that the Bylaws include a provision that sub-committees must include at least five full members of the oversight board to ensure diversity, representation, and logistical viability.

Other questions the PAC recommends that the Board address in its bylaws include:

- The Bylaws should include provisions relevant to panel procedures for hearings not covered in Code.
- Voting thresholds (other than that for panels to determine findings, established in Code 35D.200L)
- Details related to training, including as the Board reviews and revises its training requirements. This includes the structure of peer training. Additionally, the PAC recommends including additional equity trainings, building upon the requirement in Code for Board members to receive City equity trainings as part of the mandatory trainings received by all City volunteer group members)

While the PAC agreed that the Community Board for Police Accountability will have the authority to draft and agree to its own bylaws, the PAC also recommended that the Board use the PAC's Bylaws as a model for initial bylaws development, and that the Transition Team shall provide a set of draft Bylaws, based on the PAC's, to allow the Board to function as soon as it is established. Once the Board has approved the Director's job description, they shall adapt these documents or create new ones as desired.

The PAC adopted these bylaws to define high-level internal governance, with detailed internal processes defined in a separate document. Below are the Bylaws and Internal Processes documents of the PAC.

PAC Bylaws

PAC Internal Processes Document

Commented [PAC26]: From OEHR recommendation: "Consider City of Portland Equity 101 or customized Equity training focusing on using critical equity questions and counter implicit bias."

Commented [PAC27]: STAFF NOTE: Full document will be copied/pasted in after each header.

Appendix G2: Recommendations to the Board and Office for Administrative Rules adopted by Bureau (ARBs)

The PAC's proposed City Code includes that "The Board shall adopt, promulgate, amend and rescind rules and procedures required for the discharge of the Board's duties, including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and discipline procedures. The Board may also adopt rules and procedures for making raw data available to the public." (35A.050N)

The PAC agreed that there were some recommendations in the Areas of Agreement documents that would not be included in the proposed code package presented to City Council, but that would be more beneficial to recommend to the Community Board for Police Accountability and the Office for Community-based Police Accountability for implementation by the Office, pursuant to the processes in City Code, as administrative rules. This includes any portion of the City Code recommendation which City Council opts not to include in the Code, but which nonetheless reflects the PAC's intent for procedures of the Office. The PAC recommends that the Board adopt the following in its administrative rules:

Staff: Role in Training and Bylaws Development and Staff Support

- The Director may provide input to the Board when the Board is writing its Bylaws, but the Board is not required to get approval from the Director.
- The Staff shall train new Board members on bylaws and basic information and expectations using an organized curriculum which will be determined by the Board. Continuing Board members will train the new members on other areas and mentor them as they get up to speed. This will allow the preservation of institutional knowledge within the Board. It will also prevent a gap in functionality when new Board members are appointed and previous Board members leave.
- Because police misconduct investigations are taxing emotionally and mentally, staff will be provided with mental health services. The PAC recommends that staff be provided with mental health services at no cost.

Records

- In order to maintain the security of the data shared with the Board, the PAC recommends that the Board be provided with means of safely securing both physical and electronic information.
- The PAC also recommends that if medical information must be obtained, the information will be limited to the scope of the complaint and understood that all requests will comply with applicable federal and state laws (including HIPAA compliance).
- Data sharing should adhere to standards that prioritize the protection of Personal Identifiable Information (PII) of the complainant and applicable community members. Raw data available for download should include an appendix describing data sources, data definitions, and other pertinent contextual information.
- The PAC recommends noting in ARBs that the Board is the custodian of information given directly to the Board by external sources (e.g. volunteered testimony, electronic

information), and the Board will set their own retention schedules for safe disposal of the information based on state and city laws.

- Information that the Board acquires from external media sources (uploaded videos, images, social media) will be treated as public records with the understanding that the Board does not own or have the ability to grant further publication rights to media not generated by the city or obtained through the above-mentioned process. Such information will be verified for authenticity.
- Dashboards may display case statistics, open, closed statuses, sustained allegations, findings, and discipline. Dashboards shall provide filters to disaggregate data by race, ethnicity, geography, and other important categories to offer a nuanced look at the data. Communication through data dashboards shall prioritize accessibility and usability. When applicable, the Board and/or staff shall provide technical assistance, trainings, or webinars to help understand the data.

Commented [PAC28]: STAFF NOTE: OEHR recommendation as well as from Reporting and Transparency. From OEHR: "Recommendation: Demographics of complainants should be disaggregated by race, sex, sexual orientation, gender identity, religion, and housing status. These demographics should be assessed to identify systemic patterns of engagement and complaint. "

Member Support and Compensation

- Because the Community Board for Police Accountability will be a unique type of volunteer service, individual members will face unique challenges including time commitment, exposure to trauma, and risks to privacy and safety.
 - The Board shall create systems supporting and protecting individual members.
 - Members shall receive compensation for their services in order to remove barriers to service.
 - The Board shall allocate approximately 10% of its annual budget to member support and compensation and will regularly review and revise the support given as needed.
- The Board shall provide financial compensation to members on a per-hour basis for public meetings and other services.
 - In accordance with the US Department of Labor's Wage and Hour Division (WHD), the hourly compensation for volunteer board members cannot be equivalent to a professional wage.
 - Accordingly, the hourly nominal fee shall not exceed 20% of the hourly compensation rate of City employees identified by the board as conducting the same type of work.
 - The board shall review the rate of compensation annually, following the annual release of City compensation plans.
- Mental health support and services shall be provided free of charge to all board members.
- The board shall have access to the City employee assistance program, or choose other mental health service providers.

Peer Training

- One or more current full board members shall be assigned to deliver peer training to each new member appointee.

Policy Recommendations

- When the Board adopts a policy recommendation, the Board shall collaborate with staff to coordinate necessary next steps towards implementation.

Member Recruitment

- Recruitment efforts for the board should include, but not be limited to, free or paid advertisements on television, radio, print, or digital media directed at the eligible public. Recruitment information should clearly state that these are not police bureau or full-time City of Portland positions.
- At minimum, staff shall solicit applications to fill vacancies in the board's membership with help from the Office of Equity and Human Rights, the Office of Community & Civic Life, Neighborhood Coalition offices, Mayor and Council offices, other police-focused advisory committees, community organizations working on racial justice, mental health

advocacy, and houseless organizing, nonprofits, other grassroots organizations, and the general public.

- The applications of board applicants shall remain confidential to the extent allowable by law.

Appendix G3: Recommendations to the City for Legislative Agenda

The following are recommendations from the PAC for the City to use when lobbying for changes to federal or state law in its legislative agenda:

- Change ORS 192.345 which prevents the disclosure of public records unless the public interest requires disclosure in the particular instance. The disclosure of records pertaining to the investigation and discipline of police officer misconduct is in the public interest and favorable to the interest of public safety. The PAC recommends that public records law be amended to include the disclosure to complainants where relevant to their complaints.
- Amend ORS 236.360 to allow more than two interviewers to question a public safety officer under investigation.
- Currently, state public records law requires the disclosure of personal information, including residential addresses and phone numbers, of individuals who apply to serve on volunteer boards. As this may cause interested community members not to apply, and may put them at risk, the PAC recommends the City pursue a change to Oregon public records law to exempt from disclosure and hold confidential the personal identifying information of applicants to all volunteer boards, regardless of whether appointed or not.

Commented [PAC29]: Staff note: discussed but not previously agreed to by the PAC.

Commented [PAC30]: Staff note: discussed but not previously agreed to by the PAC.

In its initial assessment of barriers to police accountability, practices from other jurisdictions, and proposals from subject matter experts, which occurred in summer 2022, the PAC noted the following proposals from subject matter experts as “proposals to consider”. These were not formal recommendations of the PAC, but of a subject matter expert (the National Police Accountability Project), and the PAC agreed to refer them on to the City for consideration for its legislative agenda:

- Eliminate Qualified Immunity for police officers: The National Police Accountability Project (NPAP) recommends eliminating qualified immunity, “a court doctrine that prevents many lawsuits against police officers unless the officer is found to have violated ‘clearly established statutory or constitutional rights of which a reasonable person would have known’ [and] results in cases being thrown out before being heard.”⁴²¹
- Eliminate Absolute Immunity for prosecutors: NPAP recommends eliminating absolute immunity for prosecutors, which protects them from liability for their misconduct, which may relate to cases of police misconduct (including coercion of witnesses or use of illegally-obtained evidence).⁴²²
- Change Police Employer Liability: NPAP recommends changing rules that exempt municipalities from liability in specific instances of officer misconduct. At times officers but not employers can be held liable, which can prevent both the discovery through the court process of records related to patterns of misbehavior and holding departments accountable if a police officer has a long history of misconduct which the department was aware of.⁴²³
- Eliminate Civil Asset Forfeiture: Civil asset forfeiture allows private property to be seized by police prior to a person being found guilty of a crime, which “has caused a major issue especially for communities with economic barriers and as a result communities of color, who are

⁴²¹ Add citation (from Areas of Agreement on SMEs)

⁴²² Add citation (from Areas of Agreement on SMEs)

⁴²³ Add citation (from Areas of Agreement on SMEs)

disproportionately affected.” The PAC evaluated this recommendation in the context of avoiding and reducing inequitable conduct or misconduct prior to its occurrence.⁴²⁴

- Sue federal officers for constitutional violations: NPAP recommends that cities, counties and states file lawsuits against federal law enforcement in the event that federal law enforcement has operated within the jurisdiction and violated constitutional rights.⁴²⁵

⁴²⁴ Add citation (from Areas of Agreement on SMEs)

⁴²⁵ Add citation (from Areas of Agreement on SMEs)

Appendix G4: Recommendations to the City for Collective Bargaining

The following are a list of items which the PAC supports, and which may need to be bargained. The PAC is not certain whether each individual item needs to be bargained with police collective bargaining units, but if bargaining is required, the following list represents the PAC's goals for the bargaining process. We also recognize that some of these items, including those around Body Worn Cameras, have already been partially or fully agreed upon already.

The PAC also recommended that as part of the City meeting its bargaining obligations prior to the initial implementation of the Board, Review, "The Bureau of Human Resources shall ensure that member(s) of the Transition Team are present for any negotiation and mediation with collective bargaining units related to the implementation of the Oversight Board."⁴²⁶ This is not a proposed change to the content of collective bargaining agreements, but a PAC recommendation as to the process for those changes.

Administrative Investigations

The City should ensure that nothing in collective bargaining agreements with the Portland Police Association (PPA) or Portland Police Commanding Officers Association (PPCOA) contradict or undermine City Code related to police accountability and oversight. This includes:

- In New York, disciplinary options include putting an officer on probation. The PPCOA contract allows for vacation time or non-Fair Labor Standards Act compensation time to be taken away for discipline, but the PPA contract does not. These may be worth adding to the corrective action guide.
- The current PPA contract (20.5) says that stipulated findings and discipline can be enacted in cases of use of force where the issue is about report writing (for instance); however, if the lack of a report indicates an effort to cover up the force that was used, this should not be allowed.
- Community members are not paid to be part of an interview. The obligation that officers have to be interviewed while on duty may be worth removing from the PPA contract (61.2.2.1).
- Conducting interviews in police facilities (PPA Contract 61.2.2.2) should specify this is only an option when no community member is involved in the complaint and investigation is conducted by the appropriate City investigatory body (such as Internal Affairs).
- We propose that the City renegotiate to make sure the Board can address, at minimum, Deadly Force incidents: PPA Contract 61.2.3 "The parties recognize that IPR has no authority or responsibility relating to Articles 59 [Performance Evaluations], 61.6 [Personnel File], 61.7 [Deadly Force Incidents], and 61.8 [Criminal Investigations]"

Transition of Active Cases from IPR to the Oversight Board

⁴²⁶ Transition Plan B1E.

- To the extent allowable by applicable law, the City should ensure that collective bargaining allows the Oversight Board to apply its procedures and standards to resolution of cases transferred from IPR, PRB, or CRC at the end of Phase 1 of the Post-Transition period. PAC strongly recommends this approach, because it is in line with the values of the Charter Amendment and addresses the issues identified by the PAC in its Fact-Finding Phase.

Transition of Information

- Necessary members of the transition team, after training on confidentiality, should have access to information and data related to cases involving civilians reviewed by Independent Police Review (IPR), Internal Affairs (IA) as applicable, the Police Review Board (PRB), and the Citizen Review Committee (CRC), and any other appropriate entities only as needed to prepare trainings for incoming board members.
- During the Transition period, after training on confidentiality, the incoming board members should have access to all information and data related to cases involving civilians reviewed by IPR, IA as applicable, the PRB, the CRC, and any other appropriate entities.

Body-Worn Cameras

- The oversight board should be the owners of the body camera footage, and ensure that the Bureau has access to view footage.
 - This will limit misuse, and presumably focus the body camera program on its main intent: police accountability. There should not be a presumed use for prosecuting community members or conducting surveillance.
 - If the oversight board is unable to be the owner of the body camera footage, at a minimum the board should be co-owners with the bureau, and digital access to the body camera footage will always be turned on for the board and its staff.
- The retention schedule for body camera footage should be at least as long as the timeline to make and resolve a complaint, and resolve any civil action.
 - The new body camera system for the City of Portland should ensure that if a possible complainant has a certain amount of time to file and resolve a complaint (including any appeals or civil actions), that relevant body camera footage is maintained by the City for at least the same length of time, in instances that could reasonably be interpreted to include potential misconduct. This ensures that investigations always have access to relevant body camera footage.
- The police officers involved in the incident should write their report or have given a full and thorough statement about the incident or the event before viewing the video footage.
 - The PAC agrees that having multiple independent sources of information for consideration during evaluation of misconduct complaints will help the oversight

board more effectively investigate and make findings on those complaints. This would ensure the report is the most accurate representation of the officers' memory of the events being recorded.⁴²⁷

⁴²⁷ This policy was cited as a best practice by the US Department of Justice for Portland: <https://www.documentcloud.org/documents/21108416-letter-re-bwc-policy-principles-11-15-21-1>. Also identified by the PAC in Cincinnati, OH; Las Vegas, NV; Parker, CO; and Washington, DC. Also, see *Graham v. Connor*.